Conservation Easements
A Handbook For Landowners in the
Lower Mississippi River Valley

Preserving Special Places For Special People
Preparation and distribution of this handbook was funded through a grant made by the National Fish and Wildlife Foundation.

Written by James L. Cummins.  
Cover photo by James L. Cummins.  
Edited by Brian Ballinger, Alyene Boyles and Karen Martin.

Special thanks to the landowners profiled, Mississippi River Trust and the Texas Parks and Wildlife Department who provided much of the information in this handbook.

Accounting consultation provided by May and Company.

For copies of Conservation Easements: A Handbook for Landowners in the Lower Mississippi River Valley, contact the Mississippi River Trust at P.O. Box 15, Stoneville, MS 38776, Ph: (662) 686-3375.
# Table of Contents

**Introduction** ......................................................... 2  
**Who Are We?** ......................................................... 3  
**River Trust Services** ............................................... 4  
**What Is a Conservation Easement?** ................................ 4  
  - Why Use a Conservation Easement? ................................ 5  
  - General Information ................................................. 6  
  - Common Questions ................................................... 7  
**Conservation Easement Profiles** .................................. 13  
  - Brushy Bayou ......................................................... 14  
  - Dutch Slough Timber Co., Inc. ...................................... 15  
  - Harwood Land, LP ..................................................... 16  
  - Ice Timber Company, Inc. .......................................... 17  
  - Paradis Mitigation Bank ............................................ 18  
  - Postco, LLC ............................................................ 19  
  - Sherman S. Shaw ..................................................... 20  
  - Linda Silmon .......................................................... 21  
  - Charlotte Smith Revocable Trust and D&M Smith, LLC ........ 22  
  - Robert B. Todd ....................................................... 23  
  - Ed and Thais Tonore .................................................. 24  
  - Yendalg, LLC .......................................................... 25  
**Financial Benefits of Conservation Easements** .................. 26  
**Tax Deductions** ...................................................... 28  
  - Federal Income Taxes .............................................. 28  
  - Estate Taxes .......................................................... 29  
  - Federal Filing Requirements ....................................... 30  
  - State Income Taxes .................................................. 31  
  - Local Property Taxes ................................................ 31  
**Land Trusts** ............................................................ 32  
**Significant Habitat Needing Protection** .......................... 33  
  - Wetlands and Bottomland Hardwoods ............................ 33  
  - Native Prairie ........................................................ 34  
  - Coastal Savannas .................................................... 35  
  - Longleaf Pine Forests .............................................. 36  
  - Upland Hardwoods and Mixed Upland Hardwoods/Pine .......... 36  
  - Scenic Rivers and Streams ......................................... 37  
  - Areas That Can Improve Water Quality ............................ 38  
**Requirements** .......................................................... 40  
  - Qualification .......................................................... 40  
  - Appraisal .............................................................. 40  
  - Baseline ............................................................... 40  
  - Survey ................................................................. 40  
  - Monitoring ............................................................ 40  
**Support** ................................................................. 42  
**More Information** .................................................... 43  
**Appendices** ............................................................. 44
Some of the many reasons people call the Lower Mississippi River Valley (LMRV) home are the rich histories, prairies, red clay hills, bottomlands, bayous, coastal savannas, longleaf pine forests and scenic rivers and streams. As we face changing socioeconomic demands, we must actively work to preserve these unique features in our states.

Approximately 75 percent of the land in the LMRV states is owned by private citizens. For many of these landowners, their property is more than a financial asset; it is part of their family’s history, their sense of community and their state pride. But the LMRV landscape is changing. Today about 80 percent of all people living in the LMRV live in cities and towns, compared to about 25 percent 50 years ago. As our urban population grows, natural habitats and scenic open spaces are displaced.

One of the most significant factors affecting our landscape is the continued disappearance of family-owned farms. Family-owned farms, plantations and recreational lands are affected by changing economics and the increasing tax burden on property owners. Passing on a family farm or plantation to the next generation is a time-honored tradition. However, estate taxes, which can be as high as 55 percent of an estate’s total value, may force heirs to sell all or part of a family property.

This handbook is intended to help LMRV landowners understand one of the most flexible and effective means of conserving and protecting private property—the conservation easement (referred to as a conservation servitude in Louisiana). A conservation easement is a legal agreement that ensures a property will be managed in perpetuity according to the landowner’s desires. It may also qualify the landowner for tax benefits.

Conservation easements can assist landowners in protecting their land, wildlife habitat, scenic areas or historic buildings. Every conservation easement document must be individually crafted to reflect the special qualities of the land protected and the needs of the landowner. Conservation easements can be tailored to meet a landowner’s specific needs, whether he or she owns 5 acres or 3,000 acres.

Conservation easements help protect natural habitat and scenic and open spaces. Photo by Michael Kelly.
The Mississippi River Trust, a charitable, 501(c)(3) organization, works with private, willing landowners to find ways to preserve the LMRV’s rich history, prairies, red clay hills, bottomlands and bayous, coastal savannas, longleaf pine forests and scenic rivers and streams.

Our primary tool for land conservation is a conservation easement. It is an alternative to selling the land for development. A conservation easement will allow a willing landowner to retain ownership of the land, protect the important environmental or historical assets of the land from future development and potentially obtain certain tax advantages.

Formed in 2002, the purposes of the Mississippi River Trust are:

1. To improve the fish, wildlife and plant resources of the LMRV.
2. To acquire and hold title to land and conservation interests in land in the states of Arkansas, Kentucky, Louisiana, Mississippi, Missouri and Tennessee, in cooperation with other land trusts and government agencies, in order to ensure the benefits of land protected from industrial, commercial and residential development by private landowners.
3. To educate the public about the conservation of fish, wildlife and plants, and encourage them to become responsible stewards of the LMRV’s natural resources.
4. To develop incentive-based conservation programs.
5. To work with the major conservation agencies that affect the LMRV to pinpoint problems and target strategies so that these agencies have effective and cost-efficient programs to improve the LMRV’s environment.
6. To educate the public and private landowners about the conservation options available to landowners.

Bottomlands and bayous are one of the many habitat types desired by the Mississippi River Trust. Photo by Michael Kelly.
A conservation easement is a restriction a landowner voluntarily places on specified uses of his or her property to protect natural, productive or cultural features. A conservation easement is recorded as a written legal agreement between the landowner and the “holder” of the easement, which may be either a non-profit conservation organization or government agency. In the LMRV, conservation easements are usually donated to non-profit conservation organizations, commonly known as land trusts.

Conservation easements are recognized for legal and tax purposes by the states in the LMRV and the Internal Revenue Service (IRS) Internal Revenue Code, Section 170(h). However, before initiating a conservation easement, landowners should consult with their legal and tax advisors.

With a conservation easement, the landowner retains legal title to the property while determining the types of land uses to be continued and those to be restricted. As part of the arrangement, the landowner grants the holder of the conservation easement the right to assess the condition of the property periodically to ensure that it is maintained according to the terms of the legal agreement.

The simplest way to understand the concept involved in conservation easements is to look at the basic rights that come with land ownership. When a conservation easement is placed on a property, the owner may give up certain rights (e.g., the right to subdivide the property, develop the property, etc.). Restrictions on the property are specified in the easement.

River Trust Services

The Mississippi River Trust works in cooperation with private investors, private landowners and government agencies to protect fish and wildlife habitat throughout the LMRV.

The Mississippi River Trust services include:
1. Providing advice about conservation strategies appropriate to each landowner’s goals and objectives.
2. Designing, holding and monitoring conservation easements to protect fish and wildlife habitat from undesirable activities.
3. Working to develop mitigation banks and serving as the long-term steward and conservation easement holder on many mitigation banks.

What Is a Conservation Easement?

A conservation easement is a restriction a landowner voluntarily places on specified uses of his or her property to protect natural, productive or cultural features. A conservation easement is recorded as a written legal agreement between the landowner and the “holder” of the easement, which may be either a non-profit conservation organization or government agency. In the LMRV, conservation easements are usually donated to non-profit conservation organizations, commonly known as land trusts.

Conservation easements are recognized for legal and tax purposes by the states in the LMRV and the Internal Revenue Service (IRS) Internal Revenue Code, Section 170(h). However, before initiating a conservation easement, landowners should consult with their legal and tax advisors.

With a conservation easement, the landowner retains legal title to the property while determining the types of land uses to be continued and those to be restricted. As part of the arrangement, the landowner grants the holder of the conservation easement the right to assess the condition of the property periodically to ensure that it is maintained according to the terms of the legal agreement.

The simplest way to understand the concept involved in conservation easements is to look at the basic rights that come with land ownership. When a conservation easement is placed on a property, the owner may give up certain rights (e.g., the right to subdivide the property, develop the property, etc.). Restrictions on the property are specified in the easement.
document. The conveyance of the property must be made in perpetuity in order to receive federal tax benefits. The easement document itself is a legal instrument signed and recorded in the county or parish of record.

**Why Use A Conservation Easement?**

Conservation easements are one of the most owner-friendly conservation management tools available for private landowners wishing to preserve and/or promote a certain conservation ethic on his or her property. Conservation easements are an increasingly important tool in the efforts to protect and conserve significant habitat types and open spaces. While easements provide potentially substantial federal tax benefits, the attempt to obtain a tax benefit should never be the primary reason for granting a conservation easement.

Landowners interested in conservation usually have two principal concerns. First is the desire to protect the natural or productive qualities of their property. The landowner is typically interested in conserving special features such as fertile soil, mature trees, wildlife habitat or a piece of history even after his or her ownership comes to an end.

Second, along with maintaining productivity, LMRV landowners must also contend with the increasing tax burden associated with property ownership. Estate taxes, property taxes and the financial incentive to sell or develop are all factors that affect land-use decisions.
Landowners can place restrictions on the present and future uses of their property with the intent of promoting and/or preserving conservation practices. Furthermore, the federal government, via the IRS, recognizes that the conveyance of a real property interest to a qualified conservation organization to accomplish a specific conservation purpose has potential public benefits and, as such, may qualify the owner for a substantial tax deduction.

There are three important aspects of a conservation easement. First, the easement must have a significant conservation purpose. For example, the easement may protect and/or restore bottomland hardwoods, longleaf pine or native prairies. Furthermore, conservation easements may address national priorities established and funded by incentive programs such as the Partners for Fish and Wildlife Program, the Wetlands Reserve Program, the Healthy Forests Reserve Program, the Grassland Reserve Program, the Wildlife Habitat Incentives Program, the Conservation Reserve Program and the North American Wetlands Conservation Act.

Second, in order to qualify as a conservation easement, the easement must be granted to or held by a “qualified conservation organization.” Simply stated, the landowner donates the specific rights he or she has elected to relinquish to the conservation organization of his or her choosing by execution of the easement document. A qualified conservation organization is defined by law to include certain local, state or federal governmental agencies whose primary purpose is the conservation of natural resources. Also included are publicly supported, private conservation organizations such as the Mississippi River Trust or the Mississippi Land Trust.

It is important to note that the conservation organization which holds the easement does not actually acquire the rights donated by the conservation
easement. Instead the easement gives the conservation organization the right and responsibility to monitor and enforce the restrictions placed on the property and to ensure adherence to the easement document in perpetuity. Therefore, the landowner must clearly define and communicate, through the easement document, the rights they are giving up. It should be understood that the easement does not give the conservation organization or easement holder the ability to exercise any rights that the landowner has specifically chosen to restrict. Conservation easements do not allow public access to the property unless it is specifically provided for in the easement document.

A third essential aspect of the conservation easement process requires the development of a baseline ecological assessment. This assessment is usually conducted by resource professionals experienced in ecological progression and associated plant, animal and physiographic details. It is an “ecological snapshot” of the property at the time of the conveyance. The baseline ecological assessment establishes and records the condition of the property as well as the land uses that exist when the conservation easement is established. The baseline document is then used in monitoring by the conservation organization which serves as the easement holder of the property.

**COMMON QUESTIONS**

Invariably the subject of conservation easements raises many questions in the minds of landowners contemplating their use. The following is a compilation of some of the most commonly asked questions.

**Who may give a conservation easement?**

Any landowner of record may donate a conservation easement establishing self-imposed restrictions on the uses of their property. If there is a lien holder on the property, the lien holder must accept and agree (subordinate) to the terms of the easement. Taxes are still paid on the property by the owner of record.

**What rights and duties does the landowner retain?**

A landowner gives up only those rights which are consistent with achievement of the conservation intent specified in the easement. All other rights of ownership remain unchanged. Except for the specific restrictions set forth in the conservation easement document, the landowner retains all
other rights which were originally conveyed when the property was acquired. The land can be sold, leased and/or conveyed to heirs at the death of the original owner. Additionally, hunting, fishing, other recreational uses, timber management and utilization of other natural resources such as minerals can all be enjoyed as long as such activities are consistent with the restrictions that are chosen and placed in the initial easement conveyance.

How can you know if your property qualifies for a conservation easement?

If your property is undeveloped and has a minimum amount of agriculture or intense timber use, it will meet the basic qualification for conservation easement conveyance. Furthermore, in the LMRV, most property in prairie, upland or bottomland hardwoods, mixed pine/hardwoods or longleaf pine are considered to be significant habitat types and qualify for development of a conservation easement.

Does every easement qualify for an income tax deduction?

No. To qualify as a charitable contribution, conservation easement donations must be perpetual, must be donated to a qualified organization (a non-profit land trust) and meet one of the “conservation purposes” tests outlined in the Internal Revenue Code. Easement donors should be aware that these contributions are subject to review by the Internal Revenue Service for a number of years.

Does every easement have to be perpetual?

For the donation to qualify for income and estate tax benefits the conservation easement must be perpetual and apply to all future owners. Some organizations may be willing to purchase conservation easements. Easements that are purchased can be designed for a limited period of years. For example, the Wetlands Reserve Program, administered by the Natural Resources Conservation Service (NRCS), pays landowners for conservation easements on restored or existing wetlands that provide significant habitat for birds and other wildlife. The Grassland Reserve Program, also administered by the NRCS, pays landowners for conservation easements on restored or existing grasslands that provide significant habitat for birds and other wildlife. The Healthy Forests Reserve Program, also a NRCS administered program, pays landowners for conservation easements to restore and protect rare forest types, such as longleaf pine, that contribute to the recovery of a declining, threatened or endangered species.
What are the “conservation purposes” recognized by the Internal Revenue Code?

The Internal Revenue Service Code, Section 170(h) requires that conservation easement donations meet one or more of the following conservation purposes: protect relatively natural habitats of fish, wildlife or plants; preserve open space, including farms or forests, either for scenic enjoyment or in keeping with an adopted public policy; preserve land for public outdoor recreation or education; and/or preserve historically important land or certified historic structures. The conservation purpose of most conservation easement donations in the LMRV is derived from the protection of open space or fish and wildlife habitat.

What does “significant” mean?

In addition to meeting the basic “conservation purposes,” the IRS requires the donation be significant with regards to, but not limited to, the North American Wetlands Conservation Act, the North American Waterfowl Management Plan, the Environmental Monitoring and Assessment Program, the Partners in Flight Program, the Clean Water Act, the Endangered Species Act, the conservation provisions of the Farm Bill and each state’s Comprehensive Wildlife Conservation Strategy.

Can a conservation easement protecting open space in a real estate development qualify for an income tax deduction?

No tax deduction will be allowed if the donation is made under compulsion or in exchange for a benefit that the landowner expects to receive. Also, charitable income tax deductions for real estate developers are generally limited to the tax basis of the property. The property owner must be prepared to defend the appraisal of his or her deduction.
Does a conservation easement grant public access to my property?
No. Landowners retain control of access to their property. They may choose to allow access to specific groups or the general public in their conservation easement agreement, but landowners are not required to do so.

Can I still sell my property?
Yes. Property with a conservation easement can be bought, sold and inherited. However, the conservation easement is tied to the land and binds all present and future owners to its terms and restrictions.

What will a conservation easement mean for my children?
Future landowners, including family members, will abide by the terms of the conservation easement agreement and will continue the relationship with the organization that holds the easement. A conservation easement may reduce estate taxes paid by heirs. Families should consider the trade-off between the satisfaction of conservation goals, tax benefits resulting in reduced property value and permanent restrictions on land use.

What if the property is owned by more than one person?
All owners of a property must agree to the terms of the conservation easement before it can be granted legally.

Can I still build on my property?
The landowner may retain specified development rights in a conservation easement agreement. For example, a conservation easement protecting a farm or ranch may allow construction compatible with agricultural operations, as well as changes in crop selection or management practices. A conservation easement may specify the location, size and type of one or more residences or other development on a property.

What if my property is mortgaged?
In order for a donated conservation easement to qualify for an income tax deduction, the landowner must acquire a mortgage subordination agreement from the mortgage holder, which is often a bank. With this document the mortgage holder agrees to follow the terms of the conservation easement in the event of foreclosure.

What if I don’t own the mineral rights to my property?
This is a complicated issue that should be discussed with professional advisors. However, a landowner who does not own the mineral rights to his or her property can qualify for income or estate tax benefits if
ownership of the mineral rights was separated from the land before June 13, 1976, and remains separated today if the owner proves that the probability of surface mining occurring on the property is “so remote as to be negligible.”

Where are conservation easements recorded?
Like deeds or other types of easements, conservation easement documents are recorded with other land records in the county or parish in which the property exists.

What restrictions can be included in a conservation easement?
Conservation easements restrict future development of the property. However, they are flexible and may include or exclude almost any restricted use that is agreed to by the landowner and the conservation organization holding the easement. For example, the easement can be so restrictive that it mandates that the land be left in its natural state. On the other hand, it is common for easements to allow for various activities such as farming, hunting and fishing, planting of food plots and, in some cases, limited structural development.

Can conservation easements be changed or revoked?
Because conservation easements qualifying under IRS regulations are designed to be permanent, landowners should assume that it will not be possible to revoke an easement. However, conservation easements may be amended if both the easement holder and the landowner agree to the terms of the change and if the IRS recognized “conservation purpose” of the conservation easement is not affected.

Can a conservation easement be donated by will?
Yes. The landowner must contact the intended easement holder before conveying the easement by will to ensure that the organization will accept the donation. If the easement qualifies under federal tax law, its value is subtracted from the landowner’s taxable estate, reducing estate taxes for heirs.
Can the conservation easement be placed on just a portion of a tract of land or must it be placed on the entire property?

An easement may be applied to an entire property or to any portion of it, depending upon the character of the land. It is not uncommon to have a portion of a particular land ownership fronting a natural lake area, river front or in bottomland hardwoods with associated wetland habitats have a conservation easement on it. Generally, properties with the highest risk of development having the most desirable development characteristics carry the most advantageous tax benefit.

What can a conservation easement mean to a landowner?

By placing a conservation easement on a particular parcel of land, a property owner can be assured that the land will forever remain in a natural state unaltered by humans. Paradoxically, a landowner may be rewarded personally and philosophically by the knowledge that protective covenants are in place to promote his or her specific conservation ethic while receiving immediate financial benefits through the tax advantages that accrue.

What are the financial benefits to the landowner?

The value of a conservation easement is established by a competent real estate appraiser experienced in the use of conservation easements. The appraiser will establish the value of the property without the easement then deduct the value of the property with the easement in place. The difference between the restricted and unrestricted value of the property is the amount considered to be a charitable contribution for income tax purposes. In addition, the easement may reduce the value of the property in the landowner’s estate, thereby reducing the amount of estate taxes that will be paid.
The 12 landowners profiled in the following pages have used conservation easements to ensure their specific land use objectives in the future. The properties described in these profiles vary from a few acres of mixed upland hardwoods and pine to several thousand acres of pristine bottomland hardwood forest.

Any tax benefit associated with the use of a conservation easement is unique to the terms of the agreement and the landowner’s tax situation. Landowners should discuss the benefits of conservation easements with experienced professionals to determine their impact on specific tax situations.
This easement, approximately 2,919 acres, was originally established by Hal Scott and is located in Concordia Parish, Louisiana. Prior to the 1990s, this property was owned by General Motors Corporation as part of the Fisher Lumber Company Properties. Historically, General Motors used wood from this area in the manufacture of car bodies. The lands are comprised of a mixed bottomland hardwood component which has been subjected to various levels of sustainable timber removal.

As an ecosystem, bottomland hardwood forests have shown to provide essential biotic, water quality, hydrologic and habitat functions. Historically, the LMRV was comprised of more than 24 million acres of bottomland hardwood/wetland habitat.

These bottomland hardwood forests perform functions vital to the river and downstream bay and estuary system, including: water control and purification, groundwater recharge, soil enrichment, erosion control and support for downstream fishing industries. Additionally, over 90 percent of all bird species in Eastern North America use bottomlands at one time or another during their life cycle and thus bottomlands can be considered vital to such bird life. Bottomland hardwood forests also provide habitat for countless other species of wildlife including white-tail deer, wild turkey and black bear.

Seasonal flooding of this bottomland hardwood forest produces moist-soil areas where many species spawn and feed on the submerged plant matter, both living and dead.

This land has historically been a haven for wildlife and a retreat for sportsmen. Hunting clubs have leased the hunting rights on the property for over 30 years and their ongoing activities reflect traditional values, wildlife abundance and recreational opportunity. Today, the property is being managed with a strong focus on the protection of wildlife habitat.
The Dutch Slough Timber Co., Inc. property is a 1,065-acre hunting and fishing club located on the east side of the L’Anguille River in Lee County, Arkansas. The conservation easement is approximately 1,063 acres.

The majority of the property consists of bottomland hardwood forests and Wetlands Reserve Program (WRP) easements planted to bottomland hardwood trees or managed for waterfowl habitat. Some areas are managed as reservoirs with associated ditches, levees and field roads.

The Dutch Slough property was purchased as separate tracts from several landowners in the late 1980s to 1990s. A large timbered tract (480 acres) was purchased from Griffith Lumber Company.

With WRP tree plantings and the existing timbered areas, the property now contains approximately 673 acres of bottomland hardwood forests.

As with other properties in this area, waterfowl hunting is the sport of choice and the primary goal of management. White-tailed deer, turkey and squirrel are also important and secondary goals of management. Under the proposed plan, a significant portion of the property will be transformed into permanently forested wetlands and moist-soil areas.

There is a 16-acre pond on the property that is used for a reservoir and for recreational fishing.
Chicot County is located in the extreme southeast corner of Arkansas. History shows that Chicot County was the site of Charles Lindbergh’s first night time flight. Legend provides that Hernando De Soto is buried near Lake Village.

The Harwood Land, LP easement property is located in the southeast portion of Chicot County. The easement area lies within what is known as the Mississippi River batture; that is, the unprotected side of the Mississippi River Mainline Levee System. The average natural elevation on the Harwood easement area ranges from below 100 feet to a high of approximately 125 feet. Water levels within the unique Mississippi River batture fluctuate with river levels, regardless of local rainfall.

A majority of the Harwood easement is bottomland hardwood forests. Approximately 7 percent of the easement is enrolled in the Wetlands Reserve Program and replanted in bottomland hardwood species.

The owners place a high degree of emphasis and importance on the integrated and sustainable management of forests, wildlife, recreation and aesthetics. Throughout the property there are access roads that are a critical land management/wildlife management component and are critical elements with respect to property, protection and enjoyment.

A high quality white-tailed deer population is currently found on the property. The Harwood Land, LP participates in the Arkansas Game and Fish Commission’s Deer Management Assistance Program. Program participation is voluntary, but signifies the conservation commitment by Harwood Land, LP to apply sound wildlife management principles to the property.

Hunting on the Harwood property is promoted as a method of providing recreational opportunity, management revenues and population control, via sustainable harvest. Both resident wildlife and migrating waterfowl are hunted.
The Ice Timber Hunting Club is a 575-acre hunting club owned by the Ice Timber Company, Inc. and is located just west of the St. Francis River in Lee County, Arkansas.

The Ice Timber Hunting Club property included in the conservation easement is approximately 560 acres. The easement property was purchased as separate tracts from several landowners between September 1995 and April 2004. The largest tracts were purchased from Griffith Lumber Company (200 acres) in 1995 and from Joe and Mary Varvil (280 acres) in 2001. Other purchases were from Marjorie Baker (1995), James and Virginia Nicks (2002) and Jerrod S. Anderson (2004).

The primary objectives on the Ice Timber Company, Inc. easement are long-term conservation, hunting and sustainable forest management, the latter of which is practiced on nearly 400 acres of the property. Timber management is important to the owners, both for economic values and wildlife management. The property contains a large amount of oaks.

The major use of the property is for recreational hunting by the owners, their families and invited guests. Although white-tailed deer, turkey and squirrel hunting occur on the property, waterfowl hunting is the sport of choice. Traditionally managed for waterfowl hunting through winter flooding of agricultural fields, the Ice Timber Company, Inc. enrolled some of the property into the Wetlands Reserve Program in 2004. Therefore, other than food plots, there are no current agricultural activities on the property. The wild turkey is also an important game bird to the owners and a target for future management.
After more than 7 decades of energy production for the nation, the 7,100-acre Paradis Mitigation Bank will restore and enhance forested wetland functions and values within the LMRV. This mitigation bank is located just outside of New Orleans, Louisiana.

The primary partners are Chevron, the Mississippi River Trust and the New Orleans District of the U.S. Army Corps of Engineers.

Chevron’s property will enhance and restore ecological functions and values that are locally, regionally and nationally significant. This restoration will enhance water storage and water quality by naturally filtering sediments and human-related nutrient loading from upstream sources; locally increase flood storage and retention basins to decrease flooding; increase edge-to-area ratios for wildlife habitat, ecotones and biological diversity; create greater plant diversity upon the property; decrease forest fragmentation in the LMRV; increase habitat for the bald eagle; and sequester carbon rather than producing greater amounts of greenhouse gases.

The Paradis project decreases the probability of local flooding by providing significantly larger floodwater retention areas, while regionally providing a contiguous wetland forest ecosystem.

The Paradis Field has produced 149.4 million barrels of oil which equates to greater than 33 percent of the existing proven oil reserves for the state of Louisiana in 2004 and almost 2 years of present crude oil refining for the state of Louisiana. The Paradis Field has produced 49.5 billion cubic feet of natural gas which equates to over 11 years of residential natural gas supplies for the entire state of Louisiana.

Planting bottomland hardwoods and cypress on the 7,100 acres will transpire over 17,400 acre-feet of water per year to decrease local flooding problems.
The Postco, LLC property, located in Morehouse Parish, Louisiana, is approximately 1,310 acres in size and is predominantly in a floodplain. The property was once part of a vast bottomland hardwood forest that covered the Ouachita River Valley. The timber on the property was cleared and some of the wetlands drained in the 1960s and early 1970s to convert the use of the property to cultivation for rice and soybeans. In the late 1980s, the Farmers Home Administration foreclosed on the property and it eventually was deeded to the U.S. Fish and Wildlife Service. The Service began re-establishing hardwoods and restoring moist-soil areas with water control structures. Eventually Postco, LLC acquired the property.

The current owner, Glen Post, is protecting and managing the property for wildlife and recreation. The fact that it is located in the center of a vast area of restored habitat makes this easement an important addition to the network of lands managed for wildlife in the region.

Currently, there are 120 acres enrolled in the Service’s Partners for Fish and Wildlife Program. This acreage has been planted in bottomland hardwoods that will benefit federal trust species including the pink mucket pearly mussel, the Louisiana black bear, migratory songbirds and numerous hawks and owls.

There are four different areas on the property that are being enhanced and managed as moist-soil areas. These areas will be used by wading birds and shorebirds during the winter and spring. Overwintering and migrating waterfowl will also use these shallow water areas and flooded timber.

Since this property was once part of a vast bottomland hardwood forest, the mature hardwoods along the drains and the immature, planted hardwoods are being used by a diverse variety of terrestrial and wetland-dependent species of wildlife.
The Sherman S. Shaw easement property consists of two tracts encompassing approximately 1,025 acres located about 12 miles northwest of Newellton in Tensas Parish, Louisiana.

The property is enrolled into the Wetlands Reserve Program (WRP) in perpetuity, is separated by portions of Tensas River National Wildlife Refuge to the west by about 1 mile of agricultural field and adjoins the Linda Silmon conservation easement property to the southwest.

The property was purchased in 1994 for the purpose of agricultural production. Soybeans and small grains were produced until 1996, when the property was enrolled into the WRP and restored to forested wetland habitat. Long-term objectives include the restoration of high-quality hardwoods valued for both wildlife and timber benefits.

Small wildlife openings are managed as permanent wildlife food plots, which are currently being planted to warm- and/or cool-season grasses and legumes for wildlife.

The property provides excellent hunting opportunities for white-tailed deer and rabbit with a history of consistently good duck hunting. The property is enrolled in the Louisiana Department of Wildlife and Fisheries Deer Management Assistance Program. There are also seven moist-soil management areas that provide important requirements for a variety of wildlife species such as waterfowl, coots, rails, song birds, insects, turtles, alligators and snakes.

As with other easements in this area that border the Tensas River National Wildlife Refuge, the most prominent and important mammals on the property are the Louisiana black bear and the white-tailed deer.
The Linda Silmon easement property encompasses two tracts totaling approximately 1,289 acres, includes Wild Horse Bayou and is located in Tensas Parish about 12 miles northwest of Newellton, Louisiana. The entire easement property is located in the Mississippi River floodplain.

The easement property is subject to a perpetual Wetlands Reserve Program (WRP) easement; adjoins the Sherman S. Shaw conservation easement property to the north and is separated from a portion of Tensas River National Wildlife Refuge on the south.

The Linda Silmon easement property was purchased in about 1994 by business partners Sherman S. Shaw and Walter Silmon for soybean, milo and wheat production, as well as hunting. In 1996 the property was enrolled in the WRP and reforested to native bottomland hardwoods. Mr. Silmon passed away in 1999 and all property ownership was transferred to his spouse.

Presently, the property is being managed primarily for hunting. There are stands of hardwoods and shallow water areas that provide habitat for a diversity of species of wildlife. The property is enrolled in the Louisiana Department of Wildlife and Fisheries Deer Management Assistance Program. There are moist-soil impoundments on the easement area that have a history of consistently good duck hunting and shallow-water areas which are home to the American alligator.

The Louisiana black bear is also prominent on this property, with the nearby Tensas River National Wildlife Refuge having an estimated population of 120 to 140 of these animals.
The Charlotte Smith Revocable Trust and D&M Smith, LLC (Smith Trust) is a 191-acre forested property located adjacent to the St. Francis National Forest in Lee County, Arkansas.

The property is located upon Crowley’s Ridge, one of the six distinct natural divisions in Arkansas. Named after the early settler Benjamin Crowley, Crowley’s Ridge is the smallest natural division in Arkansas. The ridge is about 200 miles long and ranges in width from only about 0.5 to 12 miles wide. This area was home to the Quapaw Indians.

Lick Creek drains the western part of the property, emptying into the White River, which in turn empties into the Mississippi River. The eastern part of the property is drained by Sugar and Bear Creeks; these creeks empty into the St. Francis River, which in turn, also empties into the Mississippi River.

The forests of Crowley’s Ridge more closely resemble the yellow poplar and oak forests of the Appalachians in Tennessee than the forests of the adjacent Delta or nearby Ozarks. Predominant species include oak and hickory with yellow poplar and American beech being common.

This property was owned by the same family, the Christenson brothers, for about 35 to 40 years prior to the Smith’s purchasing it from their estate in 2003.

Nearly 98 percent of the property is in upland hardwoods, with about 1 acre of pasture remaining near the east boundary.

There are several small permanent wildlife openings on the property as well. These are managed for white-tailed deer and other species of wildlife. The wild turkey is an important game bird to the owners and a target of future management.
The Robert B. Todd easement property totals approximately 306 acres and is located about 11 miles southeast of Tallulah, in Madison Parish, Louisiana. The Tensas River National Wildlife Refuge is about 3.5 miles away.

The property was enrolled in the Wetlands Reserve Program in 2005 and was restored to forested wetlands.

The landowner has a strong desire for superior land stewardship with an emphasis on outdoor recreation, wildlife management and hunting.

The significance of this protected property lies in its immediate benefit to endemic and migratory species of wildlife in an agriculturally-dominant landscape; its contributions to soil, water and air conservation; its benefit to rare, threatened or endangered species, primarily the Louisiana black bear; and its proximity to other similarly protected areas.

The property provides excellent hunting opportunities for white-tailed deer and small game. Waterfowl hunting opportunities exist in low-lying, seasonally-inundated areas. There are eight moist-soil management areas on the property. Habitat critical to resident game and non-game birds is provided along with critical life cycle requirements of migratory birds; most notably neotropical songbirds, resident and migratory waterfowl.

The prominent mammals on this property are the Louisiana black bear and white-tailed deer. There are wildlife openings and food plots scattered on the property that provide important habitat diversity.
This easement of approximately 330 acres, owned by Ed and Thais Tonore, is located in Madison Parish, Louisiana and is in the Mississippi River floodplain. The property is just northeast of the Sherman S. Shaw and Linda Silmon easements and is in close proximity to the Tensas River National Wildlife Refuge with the prominent mammals being the Louisiana black bear and white-tailed deer.

There are approximately 255 acres enrolled in the Conservation Reserve Program (CRP), 50 acres in mixed bottomland hardwoods and 25 acres in waterfowl impoundments.

Having this property enrolled in the CRP reduces soil erosion; reduces sedimentation in streams and lakes; improves water quality; establishes wildlife habitat; and enhances forest and wetland resources. The Program encourages farmers to convert highly-erodible cropland or other environmentally-sensitive acreage to vegetative cover, such as native grasses, wildlife plantings, trees and filterstrips/riparian buffers.

The mixed bottomland hardwoods are found bordering the property and along Joe’s Bayou which is located on the eastern boundary of the property.

In order to hold water for the migrating waterfowl, a water control structure was installed to impound rain water flows within the area. Besides waterfowl, the property is also managed for the hunting of white-tailed deer. The roads within the easement area are generally 15 to 45 feet in width and are mowed, planted, tilled or a combination of these and surfaced with native grasses, planted annuals, gravel and/or other permeable material.
This property is located in East Baton Rouge Parish, Louisiana. It is located within the Mississippi River floodplain and is near Baton Rouge which is the county seat, as well as the capital of the state of Louisiana. The city of Baton Rouge was named by French Explorers, who upon traveling up the Mississippi River from the Gulf of Mexico; saw a red pole on the first high bluff on the east bank of the Mississippi River. Upon closer examination, they discovered a cypress pole stained red from the blood of animals and fish. Thus, the name Baton Rouge, which in English, means “red stick.”

For ecological purposes, the Yendalg, LLC easement area is broadly described as being located in the Deciduous Forest Formation. The oak/gum/cypress forest is the associated functional climax vegetation.

The property is just outside the corporate boundary of Baton Rouge and between the communities of Arlington and Iberville. The conservation easement on this property will curtail the ever-increasing urban encroachment by protecting approximately 37 acres from ever being developed.

Approximately 50 percent of the open/agricultural fields are rotationally planted in sunflowers and are primarily used for recreational hunting. Dove and white-tailed deer are the preferred game species with both resident and migratory birds also hunted.

Although only a small portion of the property is forested, the owners place a high degree of importance on sustainable management of forests, wildlife, recreation and aesthetics. With a portion of the protected property being the Elbow Bayou, the owners are also addressing water quality concerns through the management of the forested riparian areas.
Both federal and state laws provide tax benefits to landowners who protect natural or historic land with qualifying conservation easements. Conservation easements are not suited for every situation. It is important that landowners consult tax professionals for more specific information.

A conservation easement donation can qualify as a charitable contribution if:

1. it is granted in perpetuity;
2. it is granted to a qualified organization, either
   A. a non-profit, 501(c)(3) charitable organization (i.e., a land trust) with a conservation purpose and the means to enforce the easement, or
   B. a local, state or federal public agency; and
3. it achieves at least one of the following:
   A. preserves land for public outdoor recreation or education,
   B. protects relatively natural habitats of fish, wildlife or plants,
   C. preserves open space including farms, ranches or forests either for scenic enjoyment or in keeping with an adopted public policy (such as a local open space plan), or
   D. preserves historically important land or certified historic structures.

Furthermore, the IRS requires that a conservation easement donation protecting natural habitat be significant. This includes land within the Coastal Plain and the Lower Mississippi River floodplain and land that is beneficial to the North American Wetlands Conservation Act, the North American Waterfowl Management Plan, the Environmental Monitoring and Assessment Program, the Partners in Flight Program, the Clean Water Act, the Endangered Species Act, the conservation provisions of the Farm Bill and each state’s Comprehensive Wildlife Conservation Strategy.

A tax deduction for a donated conservation easement cannot be taken if the conservation easement was donated as part of a quid pro quo agreement. For example, if a conservation easement was required to be placed on an area that was to be utilized for wetlands mitigation, a tax deduction could not be taken.

For a conservation easement donation to qualify for a federal income tax deduction, the following instruments usually need to be prepared:

1. the conservation easement document;
2. an inventory (including photographs) of the property’s condition at the time of donation listing man-made structures, water resources, agricultural and significant ecological features;
3. a qualified appraisal of the conservation easement prepared by an
independent real estate appraiser working for the donor, completed no more than 60 days prior to the donation and no later than the time the tax return claiming the deduction is filed;
4. title report, copy of the deed and copies of any mortgages with subordination agreements from the mortgage holder;
5. a legal land survey; and
6. IRS Form 8283 (an attachment to the federal income tax return of anyone claiming charitable contributions of more than $5,000).
Federal Income Taxes

The federal income tax benefits of donating a conservation easement are similar to those of other charitable contributions. A landowner may deduct up to the full value of the conservation easement from his or her federal income taxes.

Tax laws require that the value of the conservation easement be determined by a qualified appraiser. Appraisers need to demonstrate to donors that they are qualified under the law and any Treasury Regulations or guidance that may exist. The qualified appraiser must demonstrate verifiable education and experience in valuing the type of property subject to the appraisal.

A conservation easement donation value is greater in areas where development pressure is intense and lower in remote areas. Likewise, a conservation easement that prohibits any development will have a higher value than an easement that permits a property to be divided or developed.

A tract of land may be worth $120,000 as a potential residential development, but worth only $20,000 as open space or recreational property. If a landowner donates a conservation easement to a land trust that prohibits new construction on his or her property, he or she makes a charitable contribution of $100,000. The landowner may then be eligible for up to $100,000 in federal income tax deductions.

If the conservation easement meets IRS criteria, the landowner may deduct the full value of the conservation easement donation from his or her adjusted gross income, up to 50 percent of the landowner’s income for the year of the gift. If the donation exceeds this amount in the year of the donation, the balance of the donation may be deducted for up to 15 succeeding years, subject to the same 50 percent limitation. However, qualifying farmers and ranchers can deduct up to 100 percent of their income.

A farmer or rancher is someone who receives more than 50 percent of his or her income from the trade or business of farming. The law references an estate tax provision (Internal Revenue Code (IRC) 2032A(e)(5)) to define activities that count as farming. Specifically, those activities include:

- cultivating the soil or raising or harvesting any agricultural or horticultural commodity (including the raising, shearing, feeding, caring for, training and management of animals) on a farm;
- handling, drying, packing, grading or storing on a farm any agricultural or horticultural commodity in its unmanufactured state, but only if the owner, tenant or operator of the farm regularly produces more than one half of the commodity so treated; and
• the planting, cultivating, caring for or cutting of trees, or the preparation (other than milling) of trees for market.

The qualified farmer or rancher provision also applies to farmers who are organized as C corporations. For an easement to qualify for the special treatment, it must contain a restriction requiring that the land remain available for agriculture or silviculture.

A landowner with a $100,000 adjusted annual income might donate a conservation easement worth $575,000 to a land trust. The landowner could deduct 50 percent of his $100,000 income, or $50,000, in each of years 1 through 11 and the remaining $25,000 in year 12. One can never deduct more than the fair market value of the gift.

Conservation easements may be phased on portions of a property over time, should the value of the charitable donation exceed a landowner’s ability to use the income tax deduction over the allowed 16 years. Subject to certain limitations some of the expenses incurred by a landowner in the donation process, including the costs for appraisals, baselines, surveys, legal review and title insurance, can also be tax deductible.

Estate Taxes

<table>
<thead>
<tr>
<th>Value of the Estate</th>
<th>Total Estate Taxes Paid (2011)</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1,000,000</td>
<td>$0</td>
</tr>
<tr>
<td>$2,000,000</td>
<td>$0</td>
</tr>
<tr>
<td>$3,000,000</td>
<td>$0</td>
</tr>
<tr>
<td>$4,000,000</td>
<td>$0</td>
</tr>
<tr>
<td>$5,000,000</td>
<td>$0</td>
</tr>
<tr>
<td>$6,000,000</td>
<td>$350,000</td>
</tr>
<tr>
<td>$7,000,000</td>
<td>$700,000</td>
</tr>
<tr>
<td>$8,000,000</td>
<td>$1,050,000</td>
</tr>
<tr>
<td>$9,000,000</td>
<td>$1,400,000</td>
</tr>
<tr>
<td>$10,000,000</td>
<td>$1,750,000</td>
</tr>
</tbody>
</table>

To calculate the value of inherited property for estate tax purposes, federal law requires that the value of the land be based on that property’s “highest and best use,” instead of actual use. For example, a landowner might own a small family ranch near a growing city which might be more valuable as a residential development. When the landowner dies, taxes on the property will be based on the land’s value as potential home sites, even if the heirs do not intend to develop the land for home sites.

A conservation easement can place restrictions on the use of a property
that limit its “highest and best use.” Because the property’s “highest and best use” is restricted, its value and the estate taxes are reduced accordingly. As noted earlier, there are limits on the income tax deduction for a conservation easement donation, but there are no such limits for estate tax purposes. Therefore, the savings on estate taxes can be substantial.

To realize estate tax benefits, a landowner must donate the conservation easement during his or her lifetime or in a legal will. Heirs cannot donate easements to avoid payment of estate taxes. A landowner intending to convey a conservation easement by a will must contact the potential holder to ensure that the organization will accept the donation.

Example of the Effects of a Conservation Easement on 2011-2012 Estate Taxes

A widowed landowner purchased a property 30 years ago that has appreciated significantly. The property, which is located near a growing suburban community, has a current fair market value of $5,000,000. The landowner donates a conservation easement to a local land trust that reduces the property’s value to $2,000,000. Assuming the landowner has $500,000 in taxable assets in addition to the property and that no prior taxable gifts have been made, the effect of the conservation easement on estate taxes for heirs would be as follows:

<table>
<thead>
<tr>
<th>Without Easement Donation</th>
<th>With Easement Donation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Value of Land</td>
<td>$ 5,000,000</td>
</tr>
<tr>
<td>Value of Other Assets</td>
<td>$ 500,000</td>
</tr>
<tr>
<td>Total Taxable Estate</td>
<td>$ 5,500,000</td>
</tr>
<tr>
<td>Total Federal Estate Tax</td>
<td>$ 175,000</td>
</tr>
<tr>
<td></td>
<td>$ 2,000,000</td>
</tr>
<tr>
<td></td>
<td>$ 500,000</td>
</tr>
<tr>
<td></td>
<td>$ 2,500,000</td>
</tr>
<tr>
<td></td>
<td>$ 0</td>
</tr>
</tbody>
</table>

*This example is accurate for currently enacted Estate Tax rates through December 31, 2012. The rate and exemption amounts included herein are subject to change due to congressional action. At the time of this publication, no legislation is pending. Under present law, the exemption for 2013 is $1,000,000 and the tax rate is 55 percent.
Federal Filing Requirements

Depending on the circumstances, persons or organizations making donations of property or conservation easements may need to include with their tax return a qualified appraisal of the conservation easement.

A qualified appraisal is one that: 1) relates to an appraisal that is made no earlier than 60 days prior to the date of donation of the conservation easement and not later than the due date (including extensions) of the return on which a deduction for the conservation easement is first claimed; 2) is prepared, signed and dated by a qualified appraiser; and 3) includes a description of the property appraised, the fair market value of the property on the date of the donation of the conservation easement and the specific basis for the valuation, a statement that such appraisal was prepared for income tax purposes, the qualifications of the appraiser and the signature and taxpayer identification number of the appraiser.

State Income Taxes

In the states of Arkansas, Kentucky, Louisiana, Mississippi, Missouri and Tennessee, landowners are able to deduct the full value of the conservation easement from his or her income taxes.

Local Property Taxes

Conservation easements may reduce property taxes. However, property taxes on agricultural land in the LMRV are reduced because they are based on a property’s productivity rather than fair market value. Conservation easements on land not classified as agricultural may reduce property taxes to the extent the value of the land is reduced. But it is important to remember that property taxes are determined by the county or parish tax assessor/collector.
To qualify for tax benefits, easements must be granted to either a government agency or a publicly supported tax-exempt conservation organization, commonly called a land trust. A land trust is a local, regional or national non-profit organization that protects land for its natural, recreational, scenic, historic or productive value. Land trusts have varying conservation objectives; some work in specific geographic areas and some concentrate on protecting different natural or cultural features.

Initially, the land trust works with the landowner to tailor the terms of the easement to protect the land’s conservation value and meet their personal and financial goals. Land trusts can also connect landowners with legal, tax or natural resource professionals familiar with conservation easements.

Land trusts that accept conservation easements are responsible for monitoring that property and ensuring that the terms of the easement are followed. Representatives from the land trust make scheduled, usually annual, visits to the property to document the condition of the property and notify the landowner of any potential violation of the conservation easement. If the terms of the conservation easement are violated, the land trust can take legal steps to stop or correct the violation.

The land trust is responsible for stewardship of the conservation easement for as long as the easement exists. It is important that a landowner select an organization that can demonstrate that it has the financial resources and staying power to handle these responsibilities over the long-term. Most land trusts request financial contributions (also tax deductible) to help defray some of the costs involved in administering a conservation easement.

A land trust may also work with a landowner to develop a management plan to include flexible goals and objectives relating to conservation of the property’s natural and cultural features. Management plans, which should be updated periodically, are especially important for productive agricultural or recreational property or for property susceptible to invasive species.
The LMRV has significant and unique habitat types that are in need of protection. They are:
1. Wetlands and Bottomland Hardwoods
2. Native Prairie
3. Coastal Savannas
4. Longleaf Pine Forests
5. Upland Hardwoods and Mixed Upland Hardwoods/Pine
6. Scenic Rivers and Streams
7. Areas That Can Improve Water Quality

Wetlands and Bottomland Hardwoods

Wetlands are valuable to different people for different reasons. Some individuals prize wetlands for the rich wildlife and fish resources found there. Others see wetlands as important areas for sediment retention, ground water recharge and flood control. Three-fourths of the wetlands in the United States are controlled by private landowners. These remaining wetlands provide essential habitat for waterfowl and other wetland-dependent wildlife, and if we are to increase their populations, incentives such as the Wetlands Reserve Program will not only enable interested landowners to develop habitat, but will help compensate them for removing their land from agricultural production.

It may have been naturalist Thomas Nuttall, for whom the Nuttall oak is named, in the early 1800s who gave us our first look at the timber resource of lowlands. Nuttall described lowlands as being “vast, trackless wilderness of trees, a dead solemnity...All is rude nature as it sprang into existence still preserving its primeval type, unclaimed exuberance.”

In 1884, C.S. Sargeant, in his report on the forests of the United States, said the lowlands “possessed a wealth of timber of the most valuable kinds in a surprising variety.” As he spoke about this land, he stated, “Along the elevated ridges from the streams, the white oak, the willow oak, the shell-bar (sic) and mocker-hickories, the black walnut in great numbers, the yellow poplar and the sassafras large enough to furnish canoes of great size, the mulberry, the Spanish oak, the sweet and black gums are the principal forest
trees, with an undergrowth in the openings of dogwoods, various haws, crabapples, wild grapes, buck thorns, etc. In the forest covering the lower lands, which sloped back everywhere in the more or less saturated soil, here the sweet gum reaches its greatest size, and here grows in great perfection the bitter-nut, the elms, hornbeans, white ash, boxelder and red maples of enormous size. The honey locust, water oaks and red and Spanish oaks are equally common. Here, among the smaller trees, the holly obtains its greatest development, with hornbeans and wahoo elms, while papaws, haws and privets from the massive and dense undergrowth which interspersed with dense cane-brakes (sic), covers the ground under the large trees.”

Beginning with Nuttall’s generation and continuing with varying intensity until the present time, the clearing of these low-lying forested lands has changed the landscape. In recent years, it has become apparent that some of this land can produce a successful crop only in relatively dry years. In some cases, these lands are better suited for timber production. Consequently, many landowners have become interested in planting these lands with bottomland hardwoods, as well as protecting them.

Areas which are currently growing bottomland hardwoods or are wetlands, or areas where the landowner desires to convert the area to bottomland hardwoods and wetlands, qualify for conservation easements.

Native Prairie

The Mississippi River Trust’s native prairie initiative is to help reverse the disappearance of native grasslands. Grasslands are important both for the forage they provide for farming operations and for the habitat they provide for plant and animal communities.

The Trust is interested in the restoration of native grasslands which is particularly important in the Black Belt Prairie of Northeast Mississippi; the Jackson Prairie in East-Central Mississippi; the Cherokee Prairie of the Arkansas Valley Plains; the Grand Prairie of Arkansas; and the Coastal Prairies of Louisiana. As recently as 100 years ago, vast native grasslands encompassed approximately 2.5 million acres of Southwest Louisiana, which is now referred to as the Coastal Prairie. Fort Campbell Military Reservation contains one of the largest and intact prairie/barren systems in Kentucky and Tennessee. These grasslands once supported vast
populations of bobwhite quail, wild turkey and a variety of species of songbirds.

The initiative will permit grazing on the easement property. Haying is permitted after the nesting season for birds in the local area. Prohibitions are intended to prevent cultivation of the soil for row crops, and otherwise to break the soil for production of agricultural commodities.

Coastal Savannas

The Mississippi River Trust has also placed an emphasis on protecting coastal savannas and their associated pine scrub, forested swamps and tidal marshes of South Mississippi and Louisiana.

According to the U.S. Fish and Wildlife Service, the original pre-settlement vegetation of the Gulf Coast consisted mostly of pine savannas.

Ecological characteristics contributing to these communities include high rainfall, low flat topography, clay soil with a hard subsurface pan leading to an infertile, acidic, waterlogged soil. The high, natural fire frequency kept the areas open, with grasses like wiregrass providing much of the fuel. Fire suppression allowed pines and shrubs to invade and out compete the native savanna plants. In the 1960s and 1970s, much of the remaining open savanna was converted to pine plantation by planting and ditching, the latter disrupted the natural water regime. Less than 5 percent of the original acreage of this habitat remains in the Atlantic/Gulf Coastal Plain making it one of the most endangered ecosystems in the country.

The savannas are large wet prairies with numerous species of low-growing grasses, sedges and herbaceous wildflowers, with occasional longleaf pines, pond cypresses or low-growing shrubs. The tree cover only ranges between 1 and 5 percent. The diversity of species of plants is large, one of the highest in North America, particularly those of the ground cover species. Of special interest are the orchids and many carnivorous plants. The wetter areas are also referred to by other names such as pitcher plant bogs.

Forest swamps are forested wetlands found in low drains through the pine savannas and include cypress/tupelo drains and forested bayheads. They are characterized by trees in the mid-story and over-story with a shrub layer and sparse herbaceous ground layer. Common trees include cypress, slash pine, bays, buckwheat, red maple, swamp tupelo, sweetgum and swamp oaks. Shrubs include gallberry and other hollies and wax myrtle. Peat moss is sometimes found in large mats. Ferns, sedges and rushes are common in the

Coastal savannas are one of the most endangered ecosystems in the United States. Photo by the U.S. Fish and Wildlife Service.
herbaceous layer. Swamps burn infrequently because of the high humidity, standing water, moist fuel and shelter from wind.

Pine scrub is a “mixed-bag” classification that includes natural pine flatwoods and former pine savannas now overgrown with slash pine. It also includes numerous shrubs because of the effects of long-term fire suppression and pine plantations. Very few of the native wildflowers and sedges remain, having been choked out by these woody plants that were formerly kept at bay by frequent surface fires.

Tidal marshes are covered by vast areas of sawgrass with herbaceous species intermixed along the edges. All these species are adapted to the saturated soils caused by incoming tides. Closer to the coast where the salinity gets higher, sawgrass is replaced with saltmeadow cordgrass and needlegrass rush.

**Longleaf Pine Forests**

The Mississippi River Trust’s longleaf pine initiative focuses on the restoration of the longleaf ecosystem. The Southern Pine Plains and Hills ecoregion extends across Southern Mississippi and Alabama and a portion of Eastern Louisiana, covering what was once part of the longleaf pine belt.

According to the U.S. Department of Agriculture, the historic range of longleaf pine has declined from over 90 million acres to less than 40 million acres during the past 2 centuries. This vital ecosystem provides valuable habitat to a wide array of wildlife. For instance, over 30 threatened and endangered species, such as the red-cockaded woodpecker, are dependent on longleaf pine habitat for their existence.

Establishment of this initiative is an important step in the effort to re-establish this threatened habitat.

Areas where a landowner has established or desires to establish longleaf pine are desirable for conservation easements.

**Upland Hardwoods and Mixed Upland Hardwoods/Pine**

Upland hardwoods and mixed upland hardwoods/pine have nurtured the economy and culture of the LMRV for generations. In recent years, landowners have witnessed the conversions of these forest types to plantation pine. Furthermore, with today’s growing population, high estate taxes, sprawling communities and other development activities, upland hardwoods
and mixed upland hardwoods/pine forests are being clear-cut, divided up and converted to non-forest and non-farm uses.

Land that will protect, restore or enhance the integrity of upland hardwoods and mixed upland hardwoods/pine forests are desirable for conservation easements.

**Scenic Rivers and Streams**

In 1970, the Louisiana Legislature created the Louisiana Natural and Scenic Rivers System. Today, there are approximately 3,000 miles of Louisiana designated Natural and Scenic Rivers and are located throughout the state.

In 1999, the Mississippi Legislature passed a non-regulatory Scenic Rivers and Streams Program to work with landowners to promote buffers along stream banks.

Each state within the LMRV has similar programs with different names. In Kentucky it is called the Kentucky Wild Rivers Program, in Tennessee it is the Scenic Rivers Program, in Missouri it is the Missouri Stream Team and Arkansas has the Arkansas Stream Team.

The goal of these programs is to preserve at least a part of the natural beauty and aesthetic values of some of the LMRV’s rivers and streams. Some of the streams in the LMRV possess unique or outstanding, scenic, recreational, ecological, botanical, fish, wildlife, historic or cultural values.

Land that will protect, restore or enhance the integrity of the river or stream will probably include conservation buffer strips, riparian corridors, wetland enhancement and restoration, bottomland hardwood tree planting and a variety of erosion control practices that are desirable for conservation easements.

**Areas That Can Improve Water Quality**

The goal of this initiative is to improve water quality by restoring and permanently protecting wetland and riparian land. This will be accomplished through the reduction of non-point source (NPS) pollution by placing conservation easements on privately-
Conservation easements are being used throughout the nation in watersheds to support the Best Management Practices (BMPs) of wetland and riparian area restoration and protection. Emphasis is on areas where intense population pressure creates many competing land uses. In this area, the preservation of fish and wildlife habitat and undeveloped corridors along streambeds is an extremely valuable by-product of easements acquired primarily to improve water quality.

The objectives of NPS wetland and riparian area restoration and protection easements are complementary to other state and federal programs. Wetlands are fairly-well protected from development through zoning but are less protected from agricultural and forestry impacts. The easement program provides an economically viable alternative to agricultural and forestry use of wetland areas.

The LMRV has abundant rainfall, finely textured soils and intensive agricultural or forest production which has resulted in substantial NPS problems. Relatively high levels of nutrients, siltation and organic enrichment (low dissolved oxygen), originating primarily from agricultural and forest production NPS, are believed to be present in most LMRV water bodies.

Soil erosion on poorly-managed fields and forests generates runoff that may transport sediments, organic residues, herbicides, pesticides and fertilizer residues to downstream water resources. Pollutants from agricultural and forest production entrained in surface runoff negatively impact riparian and wetland systems through siltation, seasonal turbidity, toxicity to organisms, dissolved oxygen depletion and eutrophication. Such suspended, fine-textured sediments result in prolonged turbidity problems and impair life processes associated with photosynthesis and the food webs that originate in aquatic productivity cycles within stream basins.
Sediments, entrained in overland runoff, absorb and transport most of the pesticides, plant nutrients, organic carbon residues and heavy metals removed from eroding agricultural and forest lands. The nutrient phosphorus, in many cases, has been shown to be the significant factor in the eutrophication of surface waters within basins.

The wide variation in total movement of pollutants from eroding fields and forests is attributed to the degree of soil disturbance, the presence of nutrient and pesticide residues on the soil surface and the strength and duration of rainfall and runoff events that occur when soils are exposed from excess tillage or timber harvesting operations. Conclusively, soil losses and movement of other runoff-borne pollutants are major reasons for the degradation of riparian and wetland systems in basins.

Easements may support wetland and riparian restoration when eligible as a BMP for controlling NPS pollution. Wetland and riparian area restoration are eligible BMPs in the following situations: 1) cultivated organic soils with channel drainage systems discharging to a stream or tributary; 2) pastured wetlands adjacent to streams or tributaries; and 3) prior converted wetlands or farmed wetlands down slope or up slope from fields identified as critical upland sediment sources.

Conservation easements using BMPs for forestry practices are also desirable. The BMPs should be based on the following principles: 1) do not allow surface water runoff from any type of soil disturbance to run directly into a watercourse; 2) maintain the integrity of all streambeds and banks; 3) do not leave debris of any type in streambeds; 4) do not spray chemicals directly into the water or allow chemicals to degrade surface or groundwater; 5) leave streamside management zones along watercourses; and 6) provide for rapid revegetation of all denuded areas through natural processes supplemented by artificial revegetation where necessary.

Conservation easements are typically placed on wetlands and bottomland hardwoods, native prairies, Coastal savannas, longleaf pine forests, upland hardwood and mixed upland hardwoods/pine and along rivers and streams according to the native species occurring in the area in question. Conservation easements will not be placed on lands where more than 50 percent of the easement area will remain in agricultural production and, even then, no-till or minimum-till system alternatives to more conventional tillage systems that result in greater soil erosion and sediment discharge will be required and incorporated in the easement document.

This initiative will address the significant surface water pollution problems in the LMRV’s basins by restoring and protecting wetlands and riparian areas. Ample opportunities for this activity exist throughout the LMRV.
Requirements

Qualification
The easement must meet a definite, significant conservation purpose. For example, the easement may protect rich history, prairies, red clay hills, bottomlands and bayous, coastal savannas, longleaf pine forests and scenic rivers and streams.

Appraisal
The value of a conservation easement is established by a competent real estate appraiser experienced in the use of conservation easements. The appraiser will establish the value of the property without the easement then deduct the value of the property with the easement in place. The difference between the restricted and unrestricted value of the property is the amount considered to be a charitable contribution for income tax purposes. In addition, the easement may reduce the value of the property in the landowner’s estate, thereby reducing the amount of estate taxes that will be paid.

Baseline
An essential aspect of the conservation easement process called for in the Uniform Conservation Easement Act is the development of a baseline ecological assessment. This assessment is usually conducted by resource professionals experienced in ecological progression and associated plant, animal and physiographic details. It is an “ecological snapshot” of the property at the time of the conveyance. The baseline ecological assessment establishes and records the condition of the property as well as the land uses that exist when the conservation easement is established. The baseline document is then used in monitoring by the conservation organization which serves as the easement holder of the property.

Survey
A legal survey of the easement area is required.

Monitoring
When the Mississippi River Trust accepts an easement, it is responsible for monitoring that property and ensuring that the terms of the easement are followed. Representatives from the Trust make scheduled, usually annual, visits to the property to document the condition of the property and notify the landowner of any potential violation of the conservation easement. If the terms of the conservation easement are violated, the Trust
can take legal steps to stop or correct the violation.

The Trust is responsible for stewardship of the conservation easement for as long as the easement exists. The Trust requests financial contributions (also tax deductible) to help defray some of the costs involved in administering a conservation easement agreement.

For the easements held to date, an endowment of approximately $1,000,000 has been established for monitoring. Each landowner with an easement on their property will be required to donate to the endowment. All contributed funds will remain in the endowment. The interest generated by the endowment, minus inflation, helps pay the cost of monitoring the easement for compliance.

Conservation easements protect the future of the Lower Mississippi River Valley. Photo by Michael Kelly.
The Mississippi River Trust, a charitable 501(c)(3) organization, is the LMRV’s largest land trust. It works exclusively to preserve the LMRV’s vast fish and wildlife habitat, working cooperatively with landowners, government agencies and the public.

The Trust is not alone in its efforts to protect lands. The Trust is primarily funded by charitable donations made by individuals and foundations that support our work. These generous donations are enabling the Trust to:

1. Conserve tens of thousands of acres of private fish and wildlife habitat throughout the LMRV.
2. Encourage sustainable forestry.
3. Promote policy initiatives that offer private landowners opportunities to practice good land stewardship such as the conservation provisions of the 2008 Farm Bill.

Be part of something great for the LMRV! Future generations will be proud of your role. Contributions from sportsmen, individuals, corporations, foundations and the conservation community are essential to the success of the Trust’s conservation initiatives. These efforts affect the health and well-being of all citizens in the LMRV by improving the quality of life through protecting, restoring and enhancing this great state’s fish, wildlife and plant resources.

Make a tax-deductible donation today. Contact the Mississippi River Trust for additional information on philanthropic options that can maximize tax benefits through gifts of appreciated stock or land.

The success and achievements of the Mississippi River Trust will be determined by your participation.
Landowners interested in learning more about conservation easements have several resources to assist them:

1. The Mississippi River Trust can answer questions about conservation easements.

   **Mississippi River Trust**  
   P.O. Box 15  
   Stoneville MS 38775  
   Phone: (662) 686-3375  
   Fax: (202) 686-4780  
   Web: [www.mississippirivertrust.org](http://www.mississippirivertrust.org)

2. The Land Trust Alliance, a national organization for land trusts, publishes books and other materials related to private land conservation. A description of several of these publications is listed in the appendices.

   **The Land Trust Alliance**  
   1660 L Street, NW, Suite 1100  
   Washington DC 20036  
   Phone: (202) 638-4725  
   Fax: (202) 638-4730  
   Web: [www.landtrustalliance.org](http://www.landtrustalliance.org)

3. Landowners should discuss the potential advantages and disadvantages of conservation easements with their own legal and tax advisors.
Appendices

I. Content of a Conservation Easement
   Parties: Grantor (landowner) and Grantee (easement holder)
   Date of Conveyance
   Recitals ("whereas" clauses)
      Title representation (assures that grantor owns the property)
      Conservation values of the property
      Legal description of property
      Documentation of “pre-easement characteristics” of property
      Continuation of existing uses
      Conveyance of rights to protect conservation values to grantee
      Qualifications of grantee to hold the easement
   Grant (transfer of property interest)
      Consideration: nominal dollar amount or gift language
      Citation of statutory authority
      Duration: perpetual
   Provisions
      1. Purpose (only uses consistent with protection of conservation values are permitted)
      2. Ingress and Egress (access to property by grantee)
      3. Prohibited Land Uses
         The three methods for defining prohibited land use are:
         Exclusive (any land use not expressly prohibited is permitted)
         Unreserved (any land use not expressly reserved is prohibited)
         Inconsistent (any land use inconsistent with the easement’s purpose is prohibited)
      4. Reserved Rights (the landowner’s rights which are reserved for possible future use)
      5. Access (public is typically denied access)
      6. Amendment (if mutually agreeable between easement holder and landowner at the time, certain provisions of easement may be modified in the future as long as original intent is achieved)
      7. Assignment (grantee retains right to transfer easement to another eligible holder)
      8. Subordination (if property is mortgaged, the mortgage holder must guarantee that it will uphold easement provisions in the event of foreclosure)
9. Subsequent transfers (easement “runs with the land,” i.e., provisions bind all future landowners in perpetuity, even if the property is sold to another)

10. Recordation (easement documents recorded in county in which the property is located)

11. Successors (easement “runs with the land,” i.e., provisions bind all future landowners in perpetuity, even if property is inherited by another)

II. Books on Conservation Easements

Available from Preserving Family Lands, P.O. Box 961241, Boston, Massachusetts 02196-1241, Ph: (617) 357-1644:

Preserving Family Lands: Essential Tax Strategies for the Landowner by Stephen Small

Available from the Land Trust Alliance, 1660 L Street NW, Suite 1100, Washington D.C. 20036, Ph: (202) 638-4725:

The Federal Tax Law of Conservation Easements by Stephen Small
The Conservation Easement Handbook (with model conservation and historic easements) by Elizabeth Byers and Karin Marchetti Ponte
A Tax Guide to Conservation Easements by C. Timothy Lindstrom
“Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it is the only thing that ever has.”

Margaret Mead

“To me, one of the great wonders of the universe is the balance of nature. It’s the reason I became involved in trying to do something about preserving it.”

Jimmy Buffett

“We make a living by what we get; we make a life by what we give.”

Winston Churchill

“As an investment banker on Wall Street, I firmly believe that environmental health is the bedrock of economic health.”

Theodore Roosevelt, IV

“All of the animals except man know that the principal business of life is to enjoy it.”

Anonymous

“Conservation will ultimately boil down to rewarding the private landowner who conserves the public trust.”

Aldo Leopold