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Rights of Nature Easement

Rights of nature easements are a way for private landowners to create legally enforceable rights for nature and ecosystems through the placement of conservation easements on parcels of land.

For decades, traditional conservation easements have been used by landowners to protect land from development. These new rights of nature easements build on those traditional conservation easements by including provisions which recognize the rights of waterways, forests, and other ecosystems to “exist, flourish, naturally evolve, and regenerate.”

The easements take “rights of nature” laws, which have been adopted in the United States by cities, towns, and counties, and incorporate those laws into restrictions on the use of specific parcels of land.

The creation and recognition of those rights for ecosystems not only establishes the principle that nature cannot be owned, but provides stronger legal protections for the land and the ecosystems dependent upon that land, while allowing the property owner to stop activities happening outside of the land that affect those rights.

What does a rights of nature easement do?

- Enables property owners to recognize ecosystems as possessing certain rights which cannot be violated by any future property owner.
- Provides legal enforcement against harmful activities occurring outside of the parcel of land which may violate the rights of ecosystems on the land. For instance, drift from genetically modified crops or pollution of upstream waterways may have impacts on the ecosystems protected by rights of nature easements. Because it is the rights of those ecosystems which are recognized and secured by the easements, the easement can be used to stop those activities.
- Allows for a certain percentage of future development on the property.
- Can be donated to any land trust or other organization which meets state legal requirements for holding easements with conservation value. The Community Environmental Legal Defense Fund, the organization which has created the rights of nature easements, has also created the Terra Conservancy, for the sole purpose of holding and enforcing rights of nature easements.

Property owners considering rights of nature easements can obtain a template easement from CELDF, and should obtain independent legal advice on the effect of the easement prior to considering the creation of one. For more information, contact Thomas Linzey, Senior Counsel, CELDF, at tal@pa.net or (717) 498-0054.