

Installment 7 of 12: *Your property has been selected – what's next?*

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For the past six months I've been talking about farmland protection in Berkeley County and each month I have tried to get deeper into the details concerning how our program works. This month I will set up a scenario to illustrate the steps the Berkeley County Farmland Protection takes once a property has been selected and the property owner is willing to sell or donate the conservation easement. This procedure isn't necessarily followed by our counterparts in Jefferson and Morgan County, but the overall task of documenting, surveying, and ensuring clear title to the land is common to all farmland protection boards in West Virginia.

In this scenario I'm assuming that your property rated at the top of either our local scoring, or the scoring used by the USDA Natural Resources Conservation Service (NRCS) for one of their applicable programs. The Farmland Protection board has extended an offer to purchase the conservation easement, and the landowner has accepted the offer. What happens next?

We start by ordering a series of technical actions and reports, each conducted by a specialist in a particular field. In Berkeley County, the Farmland Protection Board pays for all of these services. If the land owner wishes to seek legal counsel or tax or financial planning advice, those costs are not covered by the board. We first review the existing documentation and the current deed. We then meet with the property owner to discuss any areas of the property to be designated as excluded from any conservation easement, as well as to discuss areas such as the residential and farmstead envelopes that the surveyor will note on the final plat. The Farmland Protection Board requests an appraisal of the property, using appraisers qualified in creating either restricted use or yellow book appraisals. Both of these determine two values for the property: the fair market and the restricted use value. Fair market is what your property would sell on the open market. It's the best and highest value of your land. The restricted use value is what your property would sell for if it already had a conservation easement in place. The difference between these two amounts is the conservation easement value and that's what the Farmland Protection Board will pay for. Once the appraisal is complete (and in the case of federal matching funds, the appraisal has been reviewed and approved by an independent appraiser) we encourage the property owner to consult with a tax or financial planning professional as there may be tax advantages or implications that may affect the final asking price. We order a survey of the property and a full title search. Both the surveyor and the legal team look for potential problems like existing easements or right-of-ways that may interfere with the conservation easement. If the USDA is involved, they will order and pay for an environmental assessment of the property (called a Phase I study). This is a site visit by a professional who assesses any environmental risks.

We then create a baseline documentation report. This technical document records what the property looks like about the time that we create the deed of conservation easement. The baseline report involves a thorough visit and many points on the property are documented photographically, and buildings and impervious surfaces are measured. These points, called waystations, are also recorded using GPS (global positioning system). About the same time that this report is being created, the final touches are being made to the deed of conservation easement. The baseline report and the deed are then reviewed by the property owner and by the Farmland Protection Board. Once final edits are made, and our closing checklist is complete, the conservation easement is finalized as a closing; much like you would experience if you sold property. We meet at our lawyer's office and sign the deed of conservation easement as well as the baseline documentation report. These become the legally binding documents that assist in maintaining the terms of the conservation easement. If we are paying for the easement, this is also when the payment is made. The process is complete when the new deed of conservation easement is recorded in the Court House.

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