

Inheritance Laws and Conservation Easements

Konrad Liegal, Attorney

On March 21, 2008, a group of interested people met in Friday Harbor to listen and talk to Konrad Liegal, one of the pre-eminent conservation lawyers in our region. Konrad started work on saving family farms even before he had finished law school, and certainly has not slowed down. His detailed knowledge of the practical, legal, and financial aspects of conservation easements kept us both entertained and awed.

Several examples had direct application in San Juan County. In the Klamath Basin of Oregon, a young farm family was pressed by such a large debt that they felt forced to raise the numbers of livestock to unsustainable levels. With funding from the state and NRCS, a conservation easement was crafted. In it, the farmers agreed to limit the numbers and placement of buildings, to limit the numbers of livestock, and also to change their management plan regarding timing and duration of grazing along streams. In essence, the landowners used their knowledge and experience to draw an environmentally sustainable land use plan, and legally bound the land to this plan. In exchange, they were able to reduce their debt to an economically viable level. This meant that they were not forced to sell their land, but instead were successful in developing a sustainable operation.

Konrad provided details of the IRS requirements for a conservation easement donor to receive a tax break under section 170(h) of the tax code. These include the type of organizations the donation can go to, the length of time, and the purposes of a conservation easement. The benefits are changing each year, but presently a donor can deduct up to 30% of his or her adjusted gross income, with a five-year carryover. There is also a benefit when the land changes hands through inheritance or gifting, in that the land has a lower value.

From the many legal and practical details that Konrad pointed out, it was easy to understand that conservation easements require both time to figure out the details, and a person knowledgeable in the process. Konrad made a very persuasive argument for writing a will at the very least, if you care at all about your land and your heirs.

Several interesting questions surfaced during the discussion, mainly having to do with how to write a conservation easement that will last forever in a rapidly changing world. Konrad recommended building flexibility into a conservation easement, by thinking of sustainability, human needs, buildings, their placement, and local codes. All in all, it sounded like farming: not easy, but well worth it.