



Protecting the Inner Bluegrass Region of Kentucky  
through land conservation for future generations.

# BLUEGRASS CONSERVANCY

SUMMER 2011 NEWS

11,623  
acres  
permanently  
protected

Anderson County  
80 acres  
Bourbon County  
2,460 Acres  
Clark County  
735 Acres  
Fayette County  
1,951 Acres  
Franklin County  
87 Acres  
Jessamine County  
262 Acres  
Madison County  
340 Acres  
Mercer County  
154 Acres  
Scott County  
12 Acres  
Woodford County  
5,539 Acres



Bridge crossing over Sinking Creek on La Fontaine.

## Profiles in Conservation: MARIJO AND TOM FOSTER

Marijo and Tom Foster recognized when they purchased La Fontaine in 1988 that they were more than just landowners; they were stewards of the land. La Fontaine is an idyllic farm located on Keene Road in Jessamine County. It is a critical area for conservation as some of the best soils in the Inner Bluegrass Region are being consumed by extensive housing developments. Marijo and Tom chose to take a stand by donating a conservation easement on their farm to Bluegrass Conservancy with the hope that some of their neighbors would join the fight against development pressure. An interview with Marijo follows:

### What is the history of your farm?

According to author Bennett Henderson Young's *A History – Jessamine County, Kentucky, from its Earliest Settlement to 1898*, Richard Lafon settled in what is now Jessamine County in 1793. The Lafons came over the Wilderness Road with their herds

and household effects and settled, through a patent, a thousand acres, comprising the original Fontaine House tract, about two and a half miles from Keene, toward Lexington. Upon settling, Richard Lafon built one of the first brick dwelling houses in the county, Lafon House. Richard Lafon's son, John Lafon, was born December 4, 1800 and was a close friend of Henry Clay. John Lafon was the president of the Lexington and Harrodsburg Turnpike Company and under his leadership the company completed a road that linked Fayette, Jessamine, Mercer, and Boyle counties by 1847.

According to the late Mary Lee Mahan of Keene, Kentucky, the Lafon family retained ownership of the house and much of the acreage until the 1950's. The property was sold to several families over a number of years until we purchased the house and surrounding acreage in 1988. We were passionate about restoring and maintaining the property's

Continued on next page >

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*Lafon House, a two story brick Federal structure, maintains many historic features.*

## Profiles in Conservation (continued from cover)

original character and were responsible for a 2006 addition, with the help of John Creech, a local artisan and builder who specializes in native Kentucky stonework and woodwork.

The house sits atop a rolling hill overlooking Sinking Creek and facing east toward Keene-South Elkhorn Road. On the property, there is a bridge crossing over Sinking Creek as one approaches the dwelling. Tree lines encompass the house so that the setting is completely secluded and the surrounding property remains rural as far as the eye can see. The home itself is a two story brick Federal house with a double-pile plan and many of the interior and exterior original features of the house still remain.

### **Why did you decide to donate a conservation easement on your farm?**

I have never felt that my home is my possession. I have always felt more like a steward with a responsibility to preserve its history and protect it from forces of all kind. With houses built in the 1790's, there is a vulnerability that has to be addressed. I try to be respectful of its age and beauty and avoid major changes to its character while still providing proper maintenance and care. One of La Fontaine's greatest assets is its beautiful, secluded setting. Once one has passed over the bridge spanning Sinking Creek, there is a bucolic feeling that adds to the charm of the stately old home. The grounds are not manicured, but cared for in the way of the farmers who have come before me. As development has encroached, the more protective of the history and

significance of the property I have become. Tom and I couldn't bear the thought of future owners developing the fields surrounding Lafon House. It deserves better. I am the steward for now, and it was my sense of protection that led me to call Bluegrass Conservancy. It felt right to invest in the future of North Jessamine County and to protect these few acres from development. It was the least I could do for the old place.

### **Do you have any advice for a landowner considering the donation of a conservation easement on their farm?**

I wish I owned more acres to conserve, and I am very grateful to Bluegrass Conservancy for encouraging a conservation easement for my few. It feels really good to be able to leave a legacy of green fields and trees for all time. When Tom and I began our journey with Bluegrass Conservancy, our goal was preservation of the land surrounding a historical home. Now, I have a much loftier goal. If we all band together, owners of small farms and great ones, we can make a huge difference. I hope conservation will become a way of thinking for all of us lucky enough to live in this beautiful countryside.

### **For more information on conservation easements and how you can protect your land, contact Ashley Greathouse at 859-255-4552.**

*Bluegrass Conservancy would like to honor Tom Foster, who passed away in October 2010. He was a wonderful, kind man and will be greatly missed.*

## Using the Estate Tax Benefits for Conservation Easements

The principal private landowners in this country are 60 and older.<sup>1</sup> Over the next ten to twenty years, millions and millions of acres are going to change hands, and potentially change use, as these older landowners plan for, or don't plan for, what's going to happen to their land.<sup>2</sup> Estate taxes can lead to the break-up, sale, and development of family-owned land, but federal tax law offers a better alternative for landowners who donate a conservation easement to Bluegrass Conservancy.<sup>3</sup> A conservation easement donor may reduce the value of the property included in his or her estate and thereby reduce the amount of estate taxes due on the property.<sup>4</sup> For example, if the value of the property is \$1,000,000 before the easement and \$650,000 after the easement, the value of the property included in the estate for estate tax purposes would be \$650,000.

Conservation easement donors may qualify for additional estate tax savings. Up to 40% of the already-reduced estate tax value of land subject to a qualified conservation easement may be excluded from the decedent's estate.<sup>5</sup> The maximum exclusion is \$500,000.<sup>6</sup> The conservation easement must be granted in perpetuity and must otherwise meet the applicable requirements.<sup>7</sup> The land must have been owned by the decedent or a member of the decedent's family for at least 3 years immediately prior

to the decedent's death, the easement must be donated by the decedent or a member of the decedent's family, and the easement must prohibit all but minimal commercial recreational use of the land.<sup>8</sup> The exclusion applies regardless of when the conservation easement was donated.<sup>9</sup>

The value of any "development rights" retained in the conservation easement will be subject to estate tax unless the property's heirs agree to permanently extinguish some or all of these rights within 9 months of the decedent's death.<sup>10</sup> If the property is subject to a mortgage, a land value amount equal to the indebtedness amount will not be eligible for the exclusion.<sup>11</sup> For example, if the value of the property subject to an easement is worth \$650,000 but there is a \$300,000 mortgage on the property, only \$350,000 will be eligible for the exclusion. To the extent of the exclusion, the land will retain the same income tax basis it had in the landowner's hands rather than the stepped up basis for the purpose of calculating any gain on a subsequent sale.

The exclusion amount will be reduced below 40% by two percentage points for each percentage point that the conservation easement fails to reduce the value of the property by 30% (determined at the time of the contribution).<sup>12</sup> For example, if the property value before the easement is

\$1,000,000 and after the easement the value is \$650,000, and the property is not encumbered by a mortgage, the full 40% exclusion will be available subject to the exclusion cap because the easement reduces the property value by more than 30%. However, if the easement only reduces the value of the land by 20%, to \$800,000, the amount of the exclusion would be limited to 20% because the reduction in value is ten percentage points less than 30%. In other words, if the easement reduces the land value from \$1,000,000 to \$650,000 and meets all applicable requirements, only \$390,000 will be subject to estate tax by using the exclusion ( $\$650,000 - \$260,000$  (40% of \$650,000) = \$390,000). Assuming a marginal estate tax rate of 35% (2011's top rate), \$213,500 in estate taxes will be saved. If, however, the easement only reduces the value of the land to \$800,000, \$640,000 will be subject to estate tax ( $\$800,000 - \$160,000$  (20% of 800,000) = \$640,000), resulting in \$126,000 of estate tax savings. Landowners should note that the top estate tax rate is scheduled to increase to 55% in 2013.

<sup>1</sup> Stephen J. Small, *Preserving Family Lands: Book II* 9 (Boston: Landowner Planning Center, 1997).

<sup>2</sup> *Id.*

<sup>3</sup> I.R.C. § 2055(f), 2031(c) (2011).

<sup>4</sup> *Id.* at § 2055(f).

<sup>5</sup> *Id.* at § 2031(c).

<sup>6</sup> *Id.*

<sup>7</sup> I.R.C. § 170(h) (2011).

<sup>8</sup> I.R.C. § 2031(c) (2011).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*



**Change. Growth. Renewal.**

**Nature's at it all the time.**

**That's her business.**

**Time to take a leaf out of her book.**

What better time for a fresh new image than at this landmark moment, when, thanks to our passion and persistence, more than 10,000 acres of our irreplaceable Bluegrass will be protected forever.

One that says we're not stuffy or stuck in the past. We're progressive. We're as dynamic and modern in our practices and outlook as any land trust in the country.

The roots of our Bluegrass Conservancy brand run deep. Our branding consultant, Group CJ, recognizes and respects that. That's why the bur oak that's been our symbol for years still stands strong. But now it stands in the context of the countryside we're pledged to protect.

And it stands clear of constraints, no longer confined by a circle or any kind of boundary, speaking of limitless potential and endless possibilities. We've enlivened the color palette as well, with an invigorating dash of spicy orange, and adopted a fresh new font, at once modern and timeless – much like the Conservancy itself.



A view of Boone Valley Farm in Clark County



**A conservation easement** is a voluntary agreement that allows a landowner to limit the type or amount of development on their property while retaining private ownership of the land. The easement is signed by the landowner, who is the easement donor, and the Conservancy, which is the party receiving the easement. The Conservancy accepts the easement with understanding that it must enforce the terms of the easement in perpetuity. After the easement is signed, it is recorded in the County Clerk's office and applies to all future owners of the land. **The land is not open to the public.**

## CONSERVATION SOCIETY

The Board of Directors and Staff gratefully acknowledge our Conservation Society, those donors who have permanently protected their irreplaceable land for future generations. These are true leaders in the field of conservation.

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The following gifts were received between January 1, 2011 and May 31, 2011. We appreciate these thoughtful gifts, which help permanently conserve the Inner Bluegrass Region for future generations.

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Please contact us if you note any omissions so we can acknowledge the correction in our subsequent newsletter.



## Another Successful Year for the Farmland Conservation Benefit Auction!

More than 300 Bluegrass Conservancy supporters gathered for the 11th Annual Farmland Conservation Benefit Auction on Thursday, April 14th at Fasig-Tipton. Guests enjoyed cocktails mixed by special guest Rob Samuels of Maker's Mark, listened to the tunes of local favorite The Swells, and placed bids on a number of great live and silent auction items.

Items included special experiences from Bluegrass Conservancy easement donors such as a Heaven Trees Garden Tour, a Three Chimneys Farm Dove Hunt, a Trailside Farm Beekeeping Lesson, and a Kenan Farm Clambake.

Other items included Westminster Dog Show tickets packaged with gift certificates to Bobby Flay's Bar Americain and Mesa Grill, a Nova Scotia fly fishing experience, a 21c Museum Hotel getaway, an exciting Breeder's Cup weekend, a unique Secretariat Belmont Teletimer photograph, and rustic garden containers from Longwood Antique Woods.

The generosity of sponsors, item donors, event attendees, and item purchasers helped raise more funds to permanently protect scenic landscapes and fertile farmland throughout the Inner Bluegrass Region.



*BGC Board Member Boo Hardy and Becky Goodman*



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Bluegrass Conservancy's 11th Annual Farmland Conservation Benefit Auction would not have been possible without the extraordinary generosity of the following supporters.

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*Founded in 1995, Bluegrass Conservancy is a private, nonprofit land trust. Our mission is to protect the Inner Bluegrass Region of Kentucky through land conservation for future generations.*

*We encourage the preservation of these lands through the use of conservation easements for agricultural viability, natural habitat, rural heritage, and scenic open space. Our service area includes but is not limited to Anderson, Bourbon, Boyle, Clark, Fayette, Franklin, Jessamine, Madison, Mercer, Scott, and Woodford counties.*

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View photos from this exciting event benefitting Bluegrass Conservancy and The Fayette Alliance at [www.bluegrassconservancy.org](http://www.bluegrassconservancy.org)!

A special thank you to those who contributed to such a successful match supporting farmland preservation and sustainable growth in the Bluegrass. More information on this event to be featured in our Fall newsletter.

Painting courtesy of Andre Pater and Caroline H. Boone  
Photos by Mathea Kelley

