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## Conservation easements offer room to breathe

By Amy Oberlin [aoberlin@kpcmedia.com](mailto:aoberlin@kpcmedia.com) Sep 6, 2019

1 of 3



An undeveloped corner of Lake Meserve, near Pleasant Lake in Steuben County, will remain a natural scenic area thanks to effort underway by the 101 Lakes Trust and Ryan Matthews.

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The 101 Lakes Trust uses the “Yoda rule” when it comes to protecting land: “size matters not.”

The 13-year-old organization, an offshoot of the Steuben County Lakes Council, is finalizing its second conservation easement, with plans to protect two undeveloped lots on Lake Meserve.

The property covers just under an acre and is being gifted to the nonprofit land trust by Ryan Lee Matthews, a Murfreesboro, Tennessee resident who owns some local lake property.



Conservation easements are the “number one tool available for protecting privately owned land,” according to the Washington D.C.-based Land Trust Alliance, a policy and education association for land trusts in the U.S.

A conservation easement is a legal agreement a landowner makes with a nonprofit trust to limit the type and amount of development on the property in perpetuity. It provides tax savings and the promise that it will remain a natural area.

## Trusts

Wood Land Lakes RC&D Land Trust holds easements on 10,500 acres of farmland in nine counties in Indiana. Headquartered in Middlebury, it was established in 1994 to address natural resource needs in DeKalb, Elkhart, LaGrange, Noble, Steuben and Whitley counties. Its main focus is conservation easements that preserve farmland while allowing the owner to continue farming it.

Blue Heron Ministries holds conservation easements on more than 1,000 acres of private property, including 277 acres of John Bachelor’s family farm.

“Thanks to John’s vision to see wild places restored, former agricultural fields are now being planted and transformed into prairie, some mixed with oaks and other hardwoods, representative of original, open, oak savanna continuum, typical of our area prior to settlement,” wrote Blue Heron Executive Director Nate Simons in August 2016.

Blue Heron's focus is on restoring "lost landscapes" in six counties in northeastern Indiana, much of southern Michigan and the northwest corner of Ohio.

The Clear Lake Township Land Conservancy has a woodland easement among its 15 properties dotted around the lake in northeastern Steuben County. It is not part of the conservancy's public access areas but will be maintained and preserved as a forest.

ACRES Land Trust holds only a handful of conservation easements and is not actively pursuing this method, said Lettie Haver, marketing and communications advancement. The Hometown-based nonprofit prefers to own land with the intent to protect it forever.

The 101 Lakes Trust's first easement was established in November; 3.5 acres on Lake Arrowhead, near Hudson, also provided by Matthews.

When the board meets Wednesday, it will likely vote on a second easement agreement, this time at Lake Meserve, located near the eastern edge of the village of Pleasant Lake.

"It is in the process of being finalized," said board president Janet Albright. The 101 Lakes Trust's preferred properties are small, lake-area parcels that have valuable natural assets that may be threatened by development or misuse.

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## Property rights

A conservation easement “runs with the land,” meaning the easement is bound to both present and future owners. As with other real property interests, the grant of a conservation easement is recorded in local land records and becomes a part of the title.

Public policy reflected in past and recent changes to the Internal Revenue Code make the donation of a conservation easement highly favored, says an article by Gerald Harrison, a professor, attorney and Extension economist in the Department of Agricultural Economics at Purdue University, and Jesse Richardson Jr., an attorney and assistant professor in the Department of Urban Affairs and Planning at Virginia Tech.

There are four types of potential tax savings associated with donating a conservation easement: income tax on the gift, lowered real property tax, savings in federal gift and estate tax and an estate tax exclusion.

It is established with recorded deed restrictions. The restrictions are flexible and they may be tailored to the needs of individual landowners. These restrictions attach to the land and are forever, except for unusual instances such as governmental claims of eminent domain.

According to federal regulations, one or more of the following preservation types satisfies the conservation purpose: outdoor recreation and education; natural habitat; open space, including for farming and forestry, for the public benefit; and historically important land and structures.

“Restrictions can be just about anything you don’t want to happen to your property such as subdividing the parcel, creating roads, mining for various minerals, clear-cutting timber or using the property for commercial purposes. The easement also sets out activities that you want to make sure

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you, and successor owners, are able to do such as allowing family and friends to use the area for hunting, timbering with an approved timber management plan, cutting firewood for personal use and gathering wild foodstuff,” wrote attorney Richard M. Malad, Indianapolis. “It’s a win-win for those owners who want to keep their land from future changes.”

## Public benefit

In requesting the preservation of the lots on Lake Meserve, Matthews requires the “conservation of the property’s relatively natural habitat.”

It has “significant and substantial value as a natural and aesthetic resources by reason of the fact that it contains a combination of wildlife habitat ground and roughly 350 feet of natural shore line,” says agreement literature. The easement prohibits construction of permanent structures or the removal or addition of soil.

It remains Matthews’ private property, which he will have the right to maintain and use as he sees fit under the covenants of the agreement. He will continue to pay property taxes and other costs related to its ownership.

The goal of the Lake Meserve conservation easement is the preservation of scenic value. When the preservation of scenic resources is the sole purpose of a conservation easement, it is referred to as a scenic easement.

Matthews, like many others in northeastern Indiana, see not only the value of their land, but the aesthetic and natural value of ever-more-limited undeveloped areas.

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