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The challenges of conservation easement appraising

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As crude oil gushes up from the sea floor into the waters of the Gulf of Mexico in an environmental disaster of biblical proportions, media attention focuses on the economic impact of this continuing event. The list includes lost jobs in multiple industries such as oil exploration, fishing, and tourism. The nightly news splashes scenes of tar ball encrusted beaches, oil fouled pelicans and other wildlife, and oil stained wetlands. Will the economy of the area ever recover? Will the environment ever recover? Only time will answer these tough questions.

On a more positive environmental note, the relatively quiet movement toward conservation of precious farmland and wetlands continues, one property at a time. The appraisal business is once again becoming active with requests for the valuation of conservation easements as well as outright purchases of property by non-profit and/or government groups with the specific purpose of conserving the land forever, removing it from the possibility of becoming the next shopping center or housing subdivision. Due to current forces within the real estate market characterized by stagnant to declining land values, now seems to be the most opportune time to engage in conservation easement acquisition.

In general, conservation/agricultural easements are agreements between owners of land with scenic, wildlife, or other conservation attributes and government or non-profit conservation agencies that hold the easement which prohibits development of the property in perpetuity. The conservation movement began decades ago, but came into prominence in the late 1980s with laws regulating wetlands. These regulations were a response to the boom times of the mid 1980s that witnessed the destruction of valuable agricultural land and wetlands. More recently legislation has been passed regulating development within 250 feet of significant vernal pools. National and local conservation groups formed and raised funds to acquire environmentally sensitive or farmland and open space to protect against future development. On the state and national level, larger environmental groups include: Land for Maine's Future; Maine Department of Agriculture, Food and Rural Resources; Maine Department of Conservation; Maine Farmland Trust; and the United States Department of Agriculture, to name a few.

Sometimes access to the property is granted to the public depending upon the nature of the easement. Owners may qualify for tax credit for income taxes as well as reduced property taxes. Additionally, owners need to understand that there may be requirements to fund the future care and maintenance of the property. Some easements are purchased by agencies and some are donated to them.

The value of a conservation easement is determined by a "before and after" appraisal, that is, the property is valued before the encumbrance with the easement and valued again after the easement is in effect, with the difference between these two values attributable to the easement. If the appraisal is for acquisition involving federal funds or for an Internal Revenue Service tax deduction,

consideration must also be given to any enhancement to other real estate holdings of the Grantor of the conservation easement or the Grantor's family.

Before engaging in this type of valuation assignment, the appraiser needs to be aware of the proper methods and techniques involved in such an assignment. The Appraisal Institute offers an excellent course on conservation easement valuation. For more information, visit the Appraisal Institute at www.appraisalinstitute.org.

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