

## **THE NATURE CONSERVANCY RESPONDS TO *THE WASHINGTON POST* SERIES**

For more than 50 years, The Nature Conservancy has sought to preserve plants, animals and natural communities by protecting the lands and waters they need to survive. We have made laudable progress toward our mission, helping protect more than 116 million acres around the world. But with development pressures mounting over the past few decades; with the world's population expanding and increased demands placed on precious resources from fisheries to forests, the challenge of protecting natural areas and biodiversity has grown ever steeper. We began to recognize in the 1980s that land purchase alone – our signature conservation tactic – was not sufficient to meet the challenge. We had to become more innovative and collaborative to effect long-term conservation, working with communities of people, businesses and others to protect *their* landscapes, *working* landscapes, places that support economies and ways of life, wildlife and ecosystems. Because time is not on our side, we had to learn to take risks.

On May 4, 5 and 6, 2003, *The Washington Post* ran a series of highly critical articles that focused on several of those risks and implied that we had neglected or failed in our mission because of them. We write to set the record straight – both about the risks we've taken, our mistakes and how we propose to correct them; but also about our record of achievement, grossly neglected and misrepresented by the *Post*. We must and will continue to take risks in our work to protect lands and waters today, before they and their wealth of life are lost to us and to our children.

Although the *Post* series was fraught with mischaracterizations and omissions of fact, we at The Nature Conservancy recognize some mistakes we have made in pursuit of innovation and conservation change. Many of these we had begun correcting and learning from before the *Post* investigation began. We take full responsibility for our actions, as we always have. Through intensive self-examination across the Conservancy, as we have done throughout our history, we know we will emerge a stronger organization, one better able to accomplish our conservation goals.

With this document, we aim to set the record straight for our members, supporters and detractors about the issues of oversight, judgment and integrity raised by the *Post*. Before we address specific issues, we begin by reviewing our mission, strategy and values. We conclude by summarizing the steps we are taking to correct our missteps and to convert the criticism leveled at us into a real dialogue about the future of how we do conservation.

### **The Nature Conservancy's Mission, Strategy and Values**

Throughout our 52-year history, The Nature Conservancy has been known for our unique and highly successful approach to land conservation. We initially used land acquisition to "preserve wild nature," the organization's statement of purpose in the 1950s and 1960s. But as the Conservancy expanded over the years and as increasing threats to natural lands created even more demand for action, the organization tightened its focus and expanded the array of tools it uses to achieve lasting conservation results.

Today The Nature Conservancy is widely regarded and respected as an effective conservation organization, with conservation projects in all 50 states in the United States and in 26 other countries. We are known for our focused mission; our strategic framework to achieve that mission, Conservation by Design; and the unique set of values that guides how we pursue our work.

***Mission.*** The mission of The Nature Conservancy is to preserve plants, animals and natural communities that represent the diversity of life on Earth by protecting the lands and waters they need to survive. We are dedicated to preserving biological diversity, and, as described below, our values compel us to find ways to ensure that human activities can be conducted harmoniously with the preservation of natural diversity. We aspire to the vision articulated so wisely more than 50 years ago by Aldo Leopold in his book, *A Sand County Almanac*: conservation is a state of harmony between man and nature.

***Strategy.*** Our strategic framework for pursuing our mission is called Conservation by Design. It has two key components:

First, through a rigorous, science-based approach, we identify the lands and waters that represent the biodiversity of a given ecoregion. (An ecoregion is a large geographic area defined by natural features such as vegetation and geology; the Sonoran Desert is an example of an ecoregion.) Six years ago, we began an effort to develop an assessment of the places most critical for the long-term protection of ecosystems, plants and wildlife within and across the ecoregions of the Western Hemisphere, Asia and the Pacific. All together, they create a conservation blueprint

Second, Conservation by Design describes a four-step, disciplined process that enables us to develop the appropriate mix of actions to abate threats in a given place and to secure tangible, lasting conservation results. Different places require different strategies; we tailor our tools and strategies to local circumstances. Given the wide variety of threats we encounter, we must be innovative in developing flexible, uniquely tailored action plans.

Conservation by Design ensures that we focus on the right places and take the right action to achieve conservation results. The efficacy of this approach is increasingly recognized and lauded by others who are eager to use a science-based, pragmatic strategy for fulfilling their own commitments to protecting biodiversity. The Doris Duke Foundation, for example, has said:

*Because the problem of biodiversity loss dwarfs our current resources to combat it, funders and conservationists alike must make hard choices about where and how to make our stand. To achieve deep and durable success, we will need great vision and discipline, the ability to marry strategy with the right opportunity and a commitment to learn from our failures, instead of simply trumpeting our successes. Conservation by Design offers a thoughtful and well-conceptualized framework to achieve these goals.*

*As a philanthropic investor, we recognize the power of such a framework to help us identify the best and highest use of our funds. We have increasingly incorporated the key principles underlying Conservation by Design into both the selection of the sites in our*

*place-based portfolio, and into how we are now funding key strategies in those sites. We believe the framework represents a critical contribution to the field of biodiversity conservation.*

**Values.** We hold ourselves to high standards, staff and trustees alike. We freely adopted these values to guide our work, for they offer ideals to which we aspire in fulfilling our mission:

- *Integrity Beyond Reproach:* We hold paramount the trust and responsibilities placed in us by our donors, members, colleagues, partners and the public.
- *Continuity of Purpose:* We look to our mission to provide focus and guidance for everything we do.
- *Commitment to People:* We respect the needs of local communities by developing ways to conserve biological diversity while enabling them to live productively and sustainably. We value the active involvement of individuals from diverse backgrounds and beliefs in conservation efforts.
- *Effective Partnerships:* We are committed to forging public and private partnerships that combine diverse strengths, skills and resources.
- *Innovation and Excellence:* We are strategically entrepreneurial in the pursuit of excellence, encouraging original thought and its application, and willing to take risks based on sound business judgment.
- *One Conservancy:* We act as "One Conservancy," with each program assisting other programs in reaching their full potential, thereby ensuring the success of the overall organization.
- *Commitment to the Future:* We commit ourselves, individually and collectively, to leaving future generations a biologically rich world.

### **Setting the Record Straight Regarding *The Washington Post* Series**

*The Washington Post* series about The Nature Conservancy was based on a two-year investigation conducted by reporters from the *Post*. The Conservancy cooperated fully with the *Post*, providing literally thousands of pages of requested documents and scheduling interviews with dozens of staff, partners and other experts, including four separate interviews with our president, Steve McCormick. Instead of a balanced report, however, the *Post* series lacked a fair contextual description of our accomplishments and simplified complex issues, explored in depth in the following pages.

## CORPORATE SUPPORT

The charge that the Conservancy is too cozy with corporations is not news. It has been made time and again, stemming from a myopic notion that there is an unbridgeable chasm between conservation and industry – and never the twain shall meet. But in all our actions, we seek to break down this stereotype and find common ground that can advance conservation. In fact, the Conservancy occupies a unique niche in the conservation movement, what some have called "the radical center." As one journalist has said of our work: "The Nature Conservancy judges its success by how many times its victories are not reported as victories, by how many times its fights are not perceived as battles by the participants."

Our long history of working with business is no secret. We accept their financial and land donations; we create collaborative ventures that further both our interests. Most of the conservation community recognizes and applauds the role we play, and many Conservancy members support us because we work *with* corporations, not against them. Only the Conservancy can and does enjoy the support of both the chairman of General Motors and a founder of Earth First!.

We do not apologize for our partnerships with the corporate world. They, along with partnerships with local communities, private landowners and government agencies, are essential to protect and restore entire functioning landscapes. In 1973, the Conservancy broke new ground when we received a donation of 49,000 acres in the Great Dismal Swamp in Virginia from Union Camp Corporation – land that is now part of the National Wildlife Refuge system. Ever since, we have continued to push the envelope to develop creative partnerships with corporations that result in tangible, lasting conservation.

### **Business Sector Giving to The Nature Conservancy**

The *Post's* series wrongly implies – through its graphic treatment as well as text – that The Nature Conservancy is either controlled or at least is manipulated by extractive industries. The facts show the opposite: in four out of the past five fiscal years, corporate donations represented less than 10 percent of the Conservancy's total support and revenue. Instead of using this figure, the series reports that the Conservancy received \$225 million from corporations last year – "approaching the amount given by individuals." Although technically accurate, this distorts the reality. More than half of the \$225 million that year was in the form of a one-time gift of a large conservation easement, now set aside as open space for the people of Orange County, California. Of the total \$225 million, more than \$199 million was in the form of gifts of land and conservation easements from corporations.

### **Cause-related Marketing**

When a company advertises the name and logo of a nonprofit organization on its products, the organization receives a financial contribution as well as expanded name recognition, and the company can be viewed in a favorable light by the public for having supported the nonprofit cause. This well-established venture is called "cause-related marketing." Revenues from these

types of agreements have brought in more than \$10 million to the Conservancy in the past five years and the exposure has brought our conservation message to millions of people. The *Post* series neglected to put cause-related marketing in the proper context, leaving the impression that the Conservancy is the only nonprofit organization engaging in such co-branding, when in fact dozens of nonprofits from the Boys and Girls Clubs of America to the American Cancer Society to the World Wildlife Fund (WWF) engage in cause-related marketing. Additionally, the Conservancy follows the Better Business Bureau's "Standards for Charitable Accountability," which includes guidelines for the use of cause-related marketing.

The *Post* indicated that in pursuing corporate contributions, the Conservancy allowed its logo to be used on brands of toilet cleaner produced by S.C. Johnson. The facts are different. Through a cause-related marketing partnership with S.C. Johnson, the company ran a special coupon section in Sunday newspapers around the country in which the company promised to donate 10 cents from every coupon redeemed to the Conservancy – up to \$100,000. The advertisement featured the Conservancy's logo and included a variety of S.C. Johnson products, but the logo did not appear on the coupon or on the products. The ads ran once each fall from 1995 through 1999. The total proceeds to The Nature Conservancy from this partnership were \$465,000.

### **International Leadership Council**

Our International Leadership Council (ILC) is a corporate forum focusing on the challenges confronting biodiversity preservation, habitat conservation and natural resource management. These issues lie at the heart of a growing number of corporate responsibility programs. The ILC brings together companies from many industries – finance, manufacturing, forestry, consumer products, information technology, etc. – to seek solutions to conservation challenges through cooperative partnerships between the business community and the Conservancy. We want America's largest corporations to participate in this group; they have a large and significant opportunity to make enduring contributions to biodiversity conservation. The ILC has no governance responsibility for the Conservancy.

### **Climate Change**

The *Post* implied the Conservancy had reluctantly taken up the issue of global warming and climate change only in the winter of 2001. In fact, the Conservancy was in the forefront of the movement to set aside forests as a mechanism to offset atmospheric carbon emissions, with our first "climate-action project" taking place in Belize in 1994. Working with governments and industry, the Conservancy created climate-action projects as an innovative conservation tool to protect threatened forests, especially in the tropics, and to reduce atmospheric carbon levels. Climate-action projects help abate the long-term threat of climate change by protecting standing forest, which acts as a "sink" that captures and stores atmospheric carbon dioxide.

The *Post* series neglected to report that the \$10 million contributed by General Motors toward a "pollution credits" plan actually funded an important climate-action project whereby the \$10 million was used to acquire and restore 30,000 acres of the Atlantic Forest in Brazil, one of the most endangered ecosystems in the world. The *Post* also implied that we let our relationships with GM and other corporations cloud our perspective and get in the way of taking a public stand

opposing proposed drilling in the Arctic National Wildlife Refuge in Alaska. But those who know us know we do not take vocal, public stands advocating one position or the other. This would compromise our "radical center" position. We leave outspoken advocacy to fellow conservation groups.

### *Conservancy Action*

We are sensitive to the concern that the Conservancy's logo not be used to mislead consumers. To ensure that our logo is used only in appropriate cases, our Board of Governors is reviewing the current standards and guidelines that govern if we will permit others to use our logo, including the conditions imposed when we do permit our logo to be used. Until the review is complete, we have temporarily suspended all new cause-related marketing partnerships.

## **CONFLICT OF INTEREST POLICY FOR OUR BOARD OF GOVERNORS**

*The Washington Post* raised concerns about conflicts of interest, accountability and disclosure at the Conservancy. Specifically, the series implied that members of the Board of Governors used their positions with the Conservancy to offload marginal, low-value lands. The series also mischaracterized a pool of funds called the President's Discretionary Fund.

In each “conflict of interest” case cited by the *Post*, the involved Conservancy board member (or his or her business) donated or offered at a reduced price either an interest in land, goods or services. It is not unusual for members of a board of a nonprofit organization to give generous financial support, time and expertise, and in our case, donations of ecologically significant lands. That is, in part, why people are recruited to serve on boards. We view these donations with gratitude. All financial transactions between members of the board and the Conservancy are governed by conflict-of-interest and recusal policies.

All board-related conflicts of interest are fully disclosed on IRS Form 990, a form the Conservancy and all nonprofits are required by law to file annually. That form, and the accompanying conflict-of-interest descriptions, is available at <http://nature.org>.

### **Georgia-Pacific – Cat Island, Louisiana**

The *Post* examined a 9,500-acre parcel of land that the Conservancy acquired from Georgia-Pacific for \$7.5 million in 2000. The CEO of Georgia-Pacific, A.G. (Pete) Correll, is a member of our Board of Governors.

An independent appraisal of the property was conducted prior to our purchase to establish its fair market value. Georgia-Pacific agreed to sell the property for \$1 million less than fair market value. Mr. Correll did not participate in the actions of the Board on this acquisition.

The article describes the property by saying “much of it stripped of trees by clear-cutting.” The parcel in question is now part of Cat Island National Wildlife Refuge. In a 2000 Congressional hearing on the establishment of the refuge, the Chief of Refuges for the U.S. Fish and Wildlife Service pointed out that this parcel “supports one of the highest densities of virgin bald cypress trees in the Nation. Many of these trees are estimated to be between 500 and 1,000 years old, and they include the nation’s largest bald cypress tree, which is 17 feet in diameter and has a circumference of 53 feet. Overall, the forested wetlands typical of Cat Island represent one of the most valuable and productive wildlife habitat types in the United States.”

### **Georgia-Pacific – Roanoke River, North Carolina**

The *Post* cites the Conservancy’s joint management agreement in 1994 with Georgia-Pacific as “the Conservancy helped Georgia-Pacific manage environmental risks arising from its logging along North Carolina’s Lower Roanoke River.” This agreement with Georgia-Pacific set aside

21,000 acres of Georgia-Pacific-owned land in the Lower Roanoke River landscape. Under terms of that agreement, two biologically significant areas exceeding 6,000 acres were permanently placed off limits to logging. The rest could be logged selectively by helicopter but only with the joint approval of Georgia-Pacific and the Conservancy. Since that agreement, no logging has occurred except on three demonstration plots totaling fewer than 40 acres where logging preceded the 1994 agreement. When the paper company approached the Conservancy to change the easement to make logging easier, we declined. On January 21, 2003, all 21,000 acres were donated by Georgia-Pacific to the Conservancy's North Carolina chapter.

### **Orvis Services Company – Jefferson County, Florida**

The *Post* mentions the Conservancy's purchase of an easement from The Orvis Services Company. Orvis owns a 1,622-acre property in Jefferson County, Florida. This property contains important habitat for the imperiled red-cockaded woodpecker, a species that the Conservancy has targeted for conservation action throughout its range. The Conservancy's Red Hill Conservation Area plan identified these lands as a high protection priority, both because of the high quality of the habitat and increasing fragmentation of the surrounding landscape. An outside appraisal placed a fair market value on a conservation easement for the property at approximately \$1.3 million. Orvis agreed to sell the Conservancy a conservation easement for 50 percent of the fair market value, or \$649,000. The Conservancy's Florida chapter then acquired the easement.

### **Composition of the Board of Governors**

In the *Post's* quest to portray our Board of Governors as unduly influenced by Fortune 500 companies, the series overlooked a number of well-known scientists and others from academia who serve on the Board. They include John Fitzpatrick of Cornell University, Joy Zedler of the University of Wisconsin, Joel Cohen of The Rockefeller and Columbia Universities, Fran James of Florida State University and Bill Murdoch of the University of California. Esteemed biologists such as E.O. Wilson of Harvard and Dan Simberloff of the University of Tennessee have also served on the Conservancy's Board in the past. Of the corporate leaders who do serve on the Board, they serve enthusiastically as individuals, not as representatives of their particular businesses.

### ***Conservancy Action***

The Conservancy has in place a conflict-of-interest policy that covers insiders such as Board of Governors, chapter trustees and staff, and the circumstances under which they must recuse themselves from decision-making. At its June 2003 board meeting, the Conservancy is conducting a thorough review of its existing conflict-of-interest policies affecting members of the Board of Governors, trustees and staff.

## **COMPATIBLE DEVELOPMENT AND RESOURCE EXTRACTION ACTIVITIES**

We are committed to seeking innovative conservation strategies that are aligned with our values. No one organization, or even a combination of all conservation organizations, has the financial resources to simply buy up all the world's most important wildlife habitat and fragile landscapes. Instead, we must find ways to work with private and public landowners and local communities to balance biodiversity conservation and sustainable, ecologically compatible economic development. Over the years, we have launched ventures ranging from sustainable logging to ecotourism. Of these many innovative experiments – often the first of their kind – some have succeeded; others have not. Such is the nature of innovation.

The *Post* series alleged that the Conservancy engages in resource extraction activities on ecologically sensitive lands at the risk of the species we seek to protect. The Conservancy is committed at every level of our organization to putting biodiversity protection first, while exploring innovative ways to achieve conservation goals.

The *Post* mis-states that "the Conservancy is best known for acquiring tracts of wilderness." But protecting wilderness is *not* our mission. Wilderness, as defined by the Wilderness Act of 1964, is "recognized as an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain." Some places we do protect for their core, pristine and often wilderness values. But we also look to the larger landscape and the ability of this landscape to buffer core natural areas and to sustain communities of people.

Most of the landscapes in which we work are "working landscapes;" they have hosted logging, grazing and farming for generations. We and our partners have found compatible development to be a valuable conservation tool in these landscapes when used effectively. Some of our innovative efforts, however, have failed. We acknowledge our mistakes and have tried to learn from them, adapting and changing course when necessary. Of all the thousands of projects that have proven successful for the Conservancy, the *Post* not surprisingly chose to focus on three projects that appear problematic and questionable at face value.

### **Texas City Prairie Preserve, Texas**

Attwater's prairie chickens are on the brink of extinction due to the loss of their habitat, a small remnant of which is the Conservancy's Texas City Prairie Preserve, near Galveston. The natural life span of this bird is only about four years. Attwater's prairie chicken populations have fluctuated greatly in the past few years, always gradually diminishing; their existence is precarious.

Oil and gas were produced at the Texas City site for some 50 years before the Conservancy created a preserve there. Since this site was donated to us, we have substantially improved the habitat, including control of invasive species that had degraded the bird's habitat. Our production of natural gas on the preserve began only after a review by the U.S. Fish and Wildlife Service that included their recommendations on preventing adverse impacts to the

Attwater's prairie chicken. Those recommendations were made contractual requirements in our drilling agreements with private contractors.

Our staff and independent scientists have confirmed that the protection of the Attwater's prairie chicken has not been compromised by our decisions regarding oil and gas activity. Small remnant populations such as this one eventually disappear because they are simply not large enough to cope with the vagaries of their genes (which are inbred), their demography (it is typical for numbers to fluctuate widely) and their environment (which is subject to devastating hurricane damage). We regard the Texas City Prairie Preserve as a temporary home for the prairie chickens, until they can be reintroduced to a larger, more suitable habitat.

The only remaining large areas of prairie chicken habitat are on privately owned lands, and convincing landowners to cooperate with a reintroduction will depend on demonstrating that the needs of the Attwater's prairie chicken can be compatible with cattle ranching and oil and gas extraction, as is being done at Texas City. The scientist cited by the *Post*, Dr. Stanley Temple, supports continuation of oil and gas activity at the preserve, provided the funds are allocated exclusively to the management of the site and to the protection of prairie chickens at other sites. This is the course we are pursuing. The funds raised by natural gas recovery at the preserve represent the only significant private funds supporting Attwater's prairie chicken recovery efforts.

In fact, Dr. Temple believes the *Post* distorted his conclusions and the tenor of the report he issued about the Texas City prairie chickens. In a letter to the *Post* following publication of the series, Dr. Temple wrote: "Over my career as a professional conservation biologist, I have developed a keen sense of when I am being used by a reporter who is writing a hatchet job with selected quotes that bolster a preconceived story-line while ignoring my main conclusions.... The management of the prairie chicken population at the Texas City Preserve is at best a holding action, maintaining the birds under challenging conditions until the Conservancy can eventually reintroduce the birds to a larger area of suitable habitat elsewhere within their former range. That's the Conservancy's long-range plan, and it's a good one that I endorsed wholeheartedly."

Texas City offers only a tiny pocket of habitat for the prairie chickens surrounded by heavy industry, with little opportunity for expansion of the preserve. The Conservancy has, therefore, looked for additional habitat for the birds – working with private landowners in an area known as the Refugio/Goliad Prairie in South Texas. The potential habitat there is on private land and will require intensive restoration before it is suitable for the release of captive-bred birds. Discussions are under way with interested private landowners to initiate habitat restoration efforts.

There is no way to know with certainty whether activity to retrofit a gas pipeline at Texas City Prairie Preserve in 1999 contributed to the deaths of 17 captive-bred Attwater's prairie chickens that were released on the preserve. However, only seven of these birds actually were released in November.

According to records from the U.S. Fish and Wildlife Service, 10 juvenile Attwater's prairie chickens were released on the preserve on Sept. 13, 1999. All but one of those birds died within

30 days, and the final bird had died by 180 days after release. July and August are considered optimal times to release this species into the wild, yet factors such as weather (a severe drought that year made natural food scarce), the presence of predators and the number of birds released all effect the survival rates of the birds. An additional release of seven captive-bred birds took place on Nov. 3, 1999, also without any of those birds surviving.

It is interesting to note that in that same year, 47 birds were released in August at the Attwater Prairie Chicken National Wildlife Refuge, with only three of those birds surviving to May 1. In 1998, before the Conservancy commenced its drilling operations at the preserve, none of the Attwater prairie chickens released on the preserve survived.

It should be recognized that oil and gas extraction have been going on at this site for at least 50 years, with far fewer restrictions in place than the Conservancy's drilling operation. As Dr. Temple said in his report, "... the birds have persisted there even when the property was managed by previous profit-seeking owners not nearly as sensitive to the needs of the birds as TNC has been."

At Texas City, we believed we were extracting natural gas from a reservoir in which the Conservancy was the only leaseholder. We later learned that this reservoir was situated differently than we first believed, and that revenues should have been assigned in part to the Conservancy and in part to other leaseholders. When this issue was brought to the attention of our president, he took immediate steps to rectify the situation and settled with the other leaseholders for \$10 million. No donor funds were used in the settlement; the settlement is funded by the oil and gas revenue and by insurance.

We readily admit we made mistakes at Texas City. We relied heavily on the advice of an advisor, as our expertise is in conservation, not oil and gas exploration. It was uncharted territory for us. We also miscalculated the public perception of our well-intentioned actions at the preserve: Things *looked* worse than they were, given the complexities of the birds' chances of survival and the drilling operations.

### **Virginia Coast Reserve, Virginia**

The Virginia Eastern Shore is one of the largest intact, undeveloped coastal landscapes remaining on the Atlantic seaboard, due largely to more than 30 years of innovative and steadfast conservation efforts by the Conservancy and our many partners and supporters. We have engaged dozens of partners in our efforts: towns and local communities, farmers, fishermen, nonprofit organizations, universities, foundations and companies. To protect such a vast system, encompassing 14 barrier islands and mainland-side marshes, creeks, fields and forests, we have experimented with many economic development projects designed to address a daunting challenge: How to help communities create much-needed economic opportunity while protecting the ecosystem and critical habitat for migratory birds and other creatures.

Since February 2002, the Conservancy has been updating its conservation plan for the entire Virginia Eastern Shore based on Conservation by Design, the Conservancy's strategy for guiding conservation results everywhere we work. The resulting action plan includes more than 30

strategies designed to increase the Conservancy's effectiveness. These strategies are intended to enhance both operations and conservation – from positioning the program on more sustainable economic footing, to protecting more bayside habitats, to addressing the complex needs of migratory birds and marine animals.

As we have forthrightly admitted long before the *Post* series was published, we have made some mistakes at the Virginia Coast Reserve. Because it was a model project for us, one from which all of the Conservancy would learn and emulate, we were perhaps too eager to demonstrate success there and so were not as objective as we should have been. It was the only Conservancy program allowed to operate outside the state chapter structure, and as result we allowed this situation to persist too long without taking corrective measures. We also let foundering projects such as the Virginia Eastern Shore Corporation (VESC) continue without addressing their problems and failures. It's not that we should have avoided experimentation; we launched these efforts in good faith to accomplish conservation objectives. But we should have been more circumspect in assessing our work and halting work that was not yielding good results.

When Steve McCormick became president in 2001, he initiated a thorough overhaul of the Virginia Coast Reserve, part of a wider organizational change effort aimed at correcting deficiencies and improving the way the Conservancy worked. The management of the Virginia Coast Reserve was brought under the Virginia chapter oversight. And after a programmatic analysis and internal audit, we began to develop new management plans and to reduce the reserve's debt.

The *Post* cited the Conservancy's "liabilities of \$24 million" as a result of VESC. In reality, \$18 million of the Conservancy's investment was in land on the Eastern Shore; that debt has been reduced to \$4 million over the past two years through the sale of seaside farms whose development potential has been restricted through conservation easements. Between \$3.5 million and \$5 million was the investment lost on operations and the Cobb Island Station venture. An independent report by the Corporation for Enterprise Development, requested by the Conservancy, explains the failure of the VESC and lessons learned. The report is available online at: [http://www.cfed.org/sustainable\\_economies/econDev/VESC\\_full\\_report.pdf](http://www.cfed.org/sustainable_economies/econDev/VESC_full_report.pdf).

### ***Conservancy Action***

We have suspended any new resource extraction activities on Conservancy lands pending an in-depth review to ensure that these activities are fully compatible with the needs of rare and threatened species and do not jeopardize the conservation values we are dedicated to protecting.

In addition, we began acting on the mistakes at Texas City and the Virginia Coast Reserve before the *Post* began looking into these projects. At Texas City, we are implementing the recommendations of a scientific review conducted by Dr. Stanley Temple. At the Virginia Coast Reserve, we are following the findings of an internal audit conducted in 2002. In both places, we have new leadership in place, with new management plans evolving.

## CONSERVATION BUYER PROJECTS

The *Post* series' portrayal of the important and well-recognized role of conservation easements (and conservation buyer projects in particular) in saving critical habitat was fundamentally inaccurate and flawed.

A conservation easement is an agreement between a landowner and a private or public organization in which the landowner agrees to sell or donate certain rights associated with his or her property – often the right to subdivide and develop – and the organization agrees to hold those rights in trust. These restrictions are legally binding in perpetuity. Because use is restricted, land subject to a conservation easement is worth less on the market than comparable unrestricted and developable parcels. Land trusts around the country rely on this mechanism as an effective, efficient way of protecting open space and natural areas.

In recent years, the Conservancy has bought land in critical conservation areas (including land that buffers and surrounds core natural areas), placed conservation easements on the land, and then resold the restricted property. We refer to this as a "conservation buyer" project. It was misleading of the *Post* to suggest that the Conservancy sells these properties "at a loss." In every case, we retain valuable development rights that have been established over two decades of case law as having real value. In every case, the purchasers of these properties gave up valuable rights to subdivide or otherwise develop the lands *in perpetuity*.

There are generally four types of conservation buyer transactions.

- In the first transaction, the Conservancy purchases a property and places a conservation easement on it. The conservation buyer pays a price over and above the value of the restricted land (typically the same price the Conservancy paid for the property before the easement was imposed), allowing the Conservancy to recover its entire project costs. The conservation buyer, under the tax law, may then take a charitable tax deduction for the difference between the appraised value of the easement-restricted property and the amount the conservation buyer paid to the Conservancy.
- In the second type of transaction, the Conservancy purchases a property, places a conservation easement on it, and resells the land to a conservation buyer at a lower fair market value reflecting the restrictions of the easement. The fair market value of the property is lower because the property is now worth less due to the permanent, restrictive conservation easement placed on the property by the Conservancy. The Conservancy then raises private funds from other sources to cover the remainder of the cost of the original transaction.
- In the third type of transaction, as in the example above, the Conservancy purchases a property, places a conservation easement on it and resells the land to a conservation buyer at a lower fair market value (again, reflecting the reduction in the fair market value due to the placement of the conservation easement on the property). In this third type of transaction, the conservation buyer makes a tax-deductible charitable donation to the Conservancy in the amount of the difference between the Conservancy's cost and the

conservation buyer's purchase price. Donations such as these enable the Conservancy to facilitate land conservation by private landowners without spending government or donated funds.

- In the fourth type of transaction, the Conservancy purchases a property and sells the property to the buyer for full fair market value. As a condition of the sale, the buyer grants to the Conservancy a nominal (but legally enforceable) option to buy back a conservation easement over the property. At a later point in time the buyer either donates the conservation easement to the Conservancy, or in the alternative, the Conservancy exercises its right to buy the conservation easement.

All these methods have the same conservation impact – reducing the development threat forever – and the same tax impact, allowing an individual or individuals to take a tax deduction for permanently reducing the value of the land in order to protect important natural values. In every case, the value of the land before and after the restriction is established by professional, independent appraisals.

As it became clear there would be questions about the mechanics of conservation buyer transactions, the Conservancy asked a leading charitable giving tax advisor and attorney to review the various ways these transactions are structured. His analysis concluded that under tax law, the buyer in these cases is entitled to a federal income tax deduction. To review his analysis, go to <http://nature.org/pressroom>.

For all conservation buyer projects, the Conservancy obtains independent documentation of land values and the impact on those values of the permanent restrictions on development imposed by those easements. In any event, under tax law, the buyer is required to support any tax deduction with an appraisal as well.

Conservation buyer projects are only a small part of our habitat conservation activities. Since 1990, the Conservancy has completed more than 15,500 conservation land transactions – direct purchases, easements and others. Of those, 270 parcels of land were sold to conservation buyers; approximately 20 involved trustees or staff.

The *Post* series also repeatedly mischaracterizes the lands involved in conservation buyer transactions. On Martha's Vineyard, for example, the land sold to a conservation buyer has been farmed since the 1700s; it is not "pristine beach and grasslands." In fact, there are no beachfront lots. For our conservation efforts, which aim to *restore* grasslands long since lost to the plow, the conservation buyer parcels are buffer land – land surrounding the core areas we intend to restore to a natural, native grassland. The series overlooks our motivation for engaging in these transactions in the first place: These lands are *not* environmentally sensitive, but they buffer places that are.

### **Martha's Vineyard, Massachusetts**

In July of 2001, The Nature Conservancy purchased one of the largest unprotected pieces of open space on Martha's Vineyard – the 210-acre Herring Creek Farm. The project enables the

Conservancy and its partners to restore the globally rare sandplain grassland habitat that is characteristic of Martha's Vineyard, and to prevent a 33-lot subdivision originally approved for the property. Because land on Martha's Vineyard is some of the most expensive and coveted real estate in the country, we needed to work with buyers having significant resources to protect this land.

The Herring Creek Farm property originally was of interest to the Conservancy because of its close proximity to Katama airfield. (Katama is an excellent example of existing sandplain grasslands, and we have an agreement to manage the land of this grass-strip airfield.) By restoring the farm fields of Herring Creek Farm to their native condition, the Conservancy is expanding this rare habitat to create a better functioning, less fragmented ecosystem. This is especially beneficial to animals that require large spaces to forage and reproduce, like the northern harrier, a species of hawk. Once restored, the grassland and beachfront habitats at Herring Creek Farm will support rare local bird species like the grasshopper sparrow and short-eared owl as well as rare native plants such as the Nantucket shadbush and bushy rockrose; 102 acres are permanently protected from development.

This approach meant limited new development, but not on "pristine beach and grasslands." Rather, the conservation easement prohibits any beachfront development, and no more than six new homes may be constructed on former farm pasture and previously cleared land nearby (significantly less than the approved 33). None of the new home development may occur on actual sandplain grasslands, as inferred by the *Post* article.

The Conservation Commission of Edgartown and the Conservancy jointly hold the conservation restrictions that apply to all current and future owners on the land. As a result of the conservation restrictions, the number of new houses to be built on the land is limited to six, none of which are sited in the sensitive restoration area. Currently, one new home is actively under construction.

An editorial in the *Vineyard Gazette* reveals local opinion: "The [Herring Creek] farm sale agreement brings peace and an important close to more than a decade of political warfare and lawsuits between developers and conservationists over this sensitive farmland...." The editors went on to recognize the Conservancy and "its critical conservation buyers" for their "supremely important role in the agreement and in the future conservation stewardship of this treasured piece of the Vineyard."

### **Shelter Island, New York**

The Conservancy's Mashomack Preserve on Shelter Island, off the east end of Long Island, New York, is a natural area of 2,039 acres that encompasses several diverse habitats necessary for the survival of many species of plants and animals, including sensitive neotropical migratory songbirds and four rare plants.

The 9.38-acre Thompson Hill property is adjacent to the Mashomack Preserve. The property contains bluff frontage and shoreline; steep slopes run down to a pristine creek and tidal marsh that are part of the preserve. This tidal marsh is habitat for several species listed as threatened by

the state. Conservancy scientists determined that while it was not necessarily important to own the Thompson Hill property as part of the preserve, it was important to protect the hillside from development to prevent runoff that would adversely affect the salt marsh and other natural resources.

In the 1990s, when the owners of the property expressed serious interest in selling the property, the local chapter of the Conservancy did not have resources necessary to purchase the Thompson Hill property outright, so the Conservancy was pleased when the owners agreed to work with the organization to find a conservation buyer who would agree to forego intense development. The Conservancy found two conservation-minded couples who were interested in buying the property from the original owner. (The property was also listed with a local realtor.) After both couples learned of the very restrictive conservation easement, only the ultimate purchaser remained interested. The Conservancy bought the property for \$2.1 million and placed an easement on it. Independent appraisals calculated the value of the property with the easement to be \$500,000. The Conservancy then sold the easement-restricted property for its appraised value of \$500,000. The buyers were a husband and wife: The husband was a former trustee of our South Fork/Shelter Island chapter and his wife is a current trustee of the Mashomack Advisory Board, as she was when the transaction took place. The new owners made a contribution of \$1.6 million to the Conservancy that allowed the Conservancy to reinvest its resources in priority protection projects elsewhere.

As a result of this transaction, the Conservancy was able to safeguard the long-term health of our Mashomack Preserve and the important ecological features of the Thompson Hill property by reducing the number of buildable lots from four to one. The new owners received a tax deduction for their cash contribution, and the Conservancy – and the public – are assured that environmentally important permanent restrictions are in place limiting the owners' rights and the rights of future owners to develop this property.

### **Garrard County, Kentucky**

The Conservancy has preserved some 2,000 acres in the Kentucky River Palisades of Garrard County. The palisades, majestic limestone cliffs rising out of the river, are part of a landscape that harbors more rare plants than any other place in the Bluegrass Region. Farmland adjacent to the Conservancy's preserves came on the market in 2000. Although no rare species existed on the farmland, the lands were nonetheless ecologically significant and valuable as a buffer between core preserves and areas of more intense land use. More, the owner had indicated he planned to develop the property with a large number of mobile homes.

To find buyers for this farmland, the Conservancy advertised its conservation buyer projects in the Kentucky chapter newsletter and consulted its database of more than 100 conservation-minded people who had expressed an interest in purchasing land, should the opportunity arise. Lisa Estridge was among this group, as she had first contacted the Conservancy in 1998 about buying an unrelated property. The Conservancy contacted Ms. Estridge to determine whether she was interested in the farm property. We also showed the same property to more than 10 other potential buyers. Ms. Estridge made the first offer to purchase a 146-acre portion of this farmland.

The Conservancy learned shortly before closing that Ms. Estridge's father, Philip Reed, Jr., a trustee of the Conservancy's New Jersey chapter, would actually be purchasing the 146-acre tract. Mr. Reed purchased the property subject to conservation use restrictions and paid restricted use fair market value for the property as determined through an independent appraisal. Mr. Reed made a subsequent contribution to the Conservancy that exceeded the difference between the restricted use value of the land and the Conservancy's purchase price.

Ken and Vicki Brooks purchased a 54-acre portion of the property subject to conservation use restrictions. This parcel was shown to more than 10 other potential buyers before the Brookses made an offer. They paid the restricted use fair market value of the property as determined through an independent appraisal. The Brookses also made a charitable contribution to the Conservancy that covered a substantial portion of the difference between the restricted use value of the land and the Conservancy's purchase price.

### **Northern Lake Huron, Michigan**

The Northern Lake Huron shoreline was identified through the Conservancy's ecoregional planning process as a priority for protection. The U.S. Environmental Protection Agency and Environment Canada also identified this shoreline as a critical Shoreline Biodiversity Investment Area in a joint 1996 report. Thirteen species that are listed as threatened or endangered rely on this habitat. More than 250 species of migratory songbirds and waterfowl fly through this shoreline and use this habitat as a critical resting and feeding stopover site.

The property in the transaction described by the *Post* was slated to become a golf course and condominium complex. Undeveloped Michigan shoreline property is valued between \$300 to more than \$3,000 per waterfront foot. Without the help of conservation buyers, the Conservancy would not have been able to protect this area. The Michigan chapter of the Conservancy turned to a past chapter trustee for help. He said he would be the conservation buyer of the property, sparing the chapter considerable time and cost in marketing the property. The property was sold to him subject to conservation use restrictions for its restricted use fair market value as determined by an independent appraisal. The buyer also made a substantial charitable gift to the Conservancy.

### ***Conservancy Action***

The Conservancy has suspended all conservation buyer transactions pending a thorough review of our policies and procedures for these transactions.

## EXECUTIVE COMPENSATION

The *Post* questioned the compensation arrangements for President and Chief Executive Officer Steve McCormick. Although his compensation is comparable to that for CEOs of other large charities, this became an issue because we made a mistake in reporting the details of a home loan that was offered to Mr. McCormick as part of a compensation package when he was recruited to lead our organization. We made mistakes in reporting accurate information regarding Mr. McCormick's salary to the *Post*. There was never any intent to mislead the *Post*, and we regret the error.

Mr. McCormick's compensation is set by the Board of Governors and is in proportion to that of executives of similar-sized nonprofits.

The total amount of Mr. McCormick's compensation for fiscal year 2004 (July 2003 through June 2004) will be \$360,000, plus standard Conservancy fringe benefits. This amount reflects a voluntary 5 percent cut that he and the rest of the Executive Leadership Team took in light of the current economic situation.

As part of a negotiated compensation package to encourage him to move from California to Virginia, the Conservancy provided a home loan for \$1.55 million with a 1-year adjustable interest rate starting at 4.59 percent. (The rate of the loan was based on outside advice as to what a market rate would be.) He has since refinanced the Conservancy loan with a commercial lender and repaid the Conservancy's loan in full.

Mr. McCormick's total compensation for each year is listed on the Conservancy's IRS Form 990, a form all nonprofits are required to file with the IRS. The 990 Form is available at <http://nature.org>.

### ***Conservancy Action***

Until our Board of Governors takes a thorough review of our loan policies, we have temporarily suspended any new loans to current or prospective employees.

## **PRESIDENT'S DISCRETIONARY FUND**

The President's Discretionary Fund (PDF) was created in the early 1990s by former Conservancy President and CEO, John C. Sawhill, who saw a need for a special fund to address important organizational needs. Funding for the PDF came primarily from undesignated bequests and other unexpected, unrestricted contributions.

Allocation of these funds was decided by the President after conferring with members of the Board of Governors and assessment and discussion by senior management of high-priority conservation needs. Projects that received funds through the PDF include NatureServe (the former Natural Heritage programs), other science programs, the Conservancy's endowment, international programs, our Fundraising Management System software and a public education campaign.

Steve McCormick abolished the PDF in fiscal year 2002 and replaced it with a much smaller "Quick Strike Fund." That fund received an initial budgeted allocation of \$3.5 million. Due to a decrease in revenues, it will likely disburse approximately \$1 million to organizational priorities this coming year.

## COMMITMENT TO SCIENCE

The *Post's* online sidebar about the Conservancy's science programs distorts the findings of our External Science Review Committee and uses a personnel dispute in our Wyoming office to create the false impression of an organization that is not committed to science.

The implication that we are moving away from our roots as a science-based organization could not be further from the truth. Good science has always been and will remain our hallmark. We use sound science to guide our actions, from deciding where to work, to the methods we employ to conserve ecosystems and target species.

The online sidebar quotes extensively from the report of the Conservancy's External Science Review Committee, which we commissioned in 2000 to ensure that our science capacity was sufficient to meet the organization's changing needs for conservation science. We turned to outside, independent scientists to help us evaluate our organization's science capacity and implementation. The *Post* cited the report's negative comments, but none of its positive comments. The *Post* selectively plucked quotes from the staff survey while skirting the far more complex and substantive issues raised in the review.

After the report was issued in 2001, newly appointed President Steve McCormick acted quickly to make changes recommended in the report. These changes have been difficult in some cases, and some good scientists left the organization as a result of the uncertainty change always brings. To view the report of the External Science Review Committee, go to <http://www.conserveonline.org/2001/06/b/exsciencereviewweb>

To address some of the erroneous and misleading points made by the *Post*:

- Publishing by Conservancy scientists is encouraged by the organization's leadership. In the past year, the rate of publication has more than doubled. Since Steve McCormick became president, papers written by Conservancy scientists have appeared in prestigious journals such as *Science*, *Nature*, *Ecological Applications*, *Bioscience* and *Conservation Biology*.
- There is no "thought police" at the Conservancy. Although papers submitted for publication are reviewed by peers, there is no mechanism or policy by which anyone can control what a Conservancy scientist says in his or her publication.
- Among the large research projects funded in FY03 is a study examining the impact of grazing on biodiversity. We do not avoid candid assessments of contentious issues such as this.
- The Conservancy is leading the way among conservation organizations in documenting the implications of climate change for existing conservation projects. We do not avoid this topic in our research or conservation plans.

- The vast majority of Conservancy scientists and science talent and innovation is in the field – not at our Worldwide Office in Arlington – spread throughout all 27 countries in which we work. The dispersing of scientists in the field is a deliberate management strategy for better connecting science to conservation work.

## LEARNING FROM THE CRITICISM

Despite our collective disappointment and frustration over the lack of balance in the *Post* series, we realize that it raises some valid questions for our organization. We have not been as sensitive as we should have been about how things were perceived by others not familiar with our conservation methods. We do take it seriously when someone questions our oversight, judgment and integrity, and we are committed to changing practices that do not live up to our mission and values. What we should be judged by is not whether we made mistakes, but how we learn from them and how we ensure that our most serious errors are not repeated.

More than a year ago, we began a thorough internal audit of our policies and procedures as part of our commitment to our members to be leaders in nonprofit management. The June meeting of the Conservancy's Board of Governors will be dedicated to a full discussion of governance issues generally, as well as the issues outlined by the *Post*. Our intent is to review and where necessary change our policies and procedures to ensure that we meet the highest standards of public integrity and sound conservation science in all of our activities. We will be aided in that review by a number of independent and highly regarded outside experts.

Pending the outcome of the Board review, which may extend beyond the June meeting, we have temporarily suspended the following practices:

- All new conservation buyer transactions;
- All new resource extraction activities at Conservancy preserves;
- All new cause-related marketing partnerships; and
- Any new loans to current or prospective employees.

In addition, we began resolving problems at Texas City and the Virginia Coast Reserve before the *Post* series ran. At Texas City, we are implementing the recommendations of a scientific review conducted by Dr. Stanley Temple. In both places, we have new leadership in place, with new management plans evolving.

We will certainly focus on the *Post's* specific charges. But our intent is to conduct a thoughtful and wide-ranging review to ensure that the Conservancy's actions are in every case consistent with our mission. We will pay close attention to how we engage and work with our Board and chapter trustees, as well. We know any self-examination of our organization can only make us a stronger, more resilient force for conservation.

We are proud of our record of on-the-ground results. In the past two years – the length of time of the *Post's* investigation – we have protected more than 2 million acres, an area the size of Yellowstone National Park. We believe that our record of innovation, of working with the private sector, private landowners, government and the environmental community to achieve science- and market-based solutions to conservation, is an important contribution to a pressing global issue. We are especially grateful to the more than 1,500 distinguished Americans who volunteer without pay as our trustees.

Our work depends on the trust placed in us by our donors, members, volunteers, partners and the public. We recognize our responsibility to earn that trust every day, through all of our actions.