

## **Partial Interests in Land: Policy Tools for Resource Use and Conservation.**

By Keith Wiebe and Ababayehu Tegene, Natural Resources and Environment Division, and Betsey Kuhn, Food and Consumer Economics Division, Economic Research Service, U.S. Department of Agriculture. Agricultural Economic Report No. 744.

### **Abstract**

Property rights arise out of law, custom, and the operation of private markets, with important implications for how land and other natural resources are used and conserved. Over the past several years, debate about the nature and scope of property rights has combined with budget concerns and reauthorization of the Farm Bill, the Clean Water Act, and the Endangered Species Act to focus public attention on Federal natural resource policy. This report examines the nature of land ownership and the evolving Federal role in land use and conservation, with particular attention to the voluntary acquisition and conveyance of conservation easements and other partial interests in land.

Keywords: property rights, partial interests, land use, conservation easements

### **Acknowledgments**

In preparing this report, we have benefited from the assistance of numerous individuals from a variety of Federal, State, local, and private agencies nationwide. For their comments on earlier drafts, we also wish to thank William Anderson, Alex Barbarika, David Buland, Jim Catterton, Tom Daniels, Michael Gippert, Doug Gordon, Ralph Heimlich, Kevin Kinvig, Doug Lawrence, Warren Lee, Bob Misso, Eric Olson, Tim Osborn, David Sherman, Robbin Shoemaker, Gordon Small, Steve Small, James Snow, Paul Tittman, Diane Vosick, and Gene Wunderlich. Finally, we are grateful to Brenda Powell for her assistance with editing and production. Responsibility for the final draft rests with the authors.

# Contents

Summary .....	iii
Introduction .....	1
Partial Interests in Land .....	2
Property and Ownership .....	2
Partial Interests .....	2
Policy Tools for Resource Use and Conservation .....	4
The Federal Role in Partial Interests as Policy Tools .....	7
Partial Interests in Three Policy Settings .....	8
Farmland Protection .....	10
The Conservation Reserve Program .....	14
The Wetlands Reserve Program .....	19
Markets for Partial Interests in Land .....	24
Participants .....	24
Transactions .....	27
Partnerships .....	29
Mitigation Banking .....	31
Valuation of Partial Interests in Land .....	33
Fair Market Value .....	33
After-Tax Value .....	40
Social Value .....	41
Case Studies Revisited .....	42
Lessons for Resource Use and Conservation Policy .....	44
References .....	45
Appendix .....	52
Index .....	53

## Summary

The nature and distribution of property rights are fundamental to the health of the Nation's economy and environment. These rights arise out of law, custom, and the operation of private markets, with important implications for how land and other natural resources are used and conserved. Over the past several years, debate about property rights, combined with budget concerns and reauthorization of the Farm Bill and other environmental legislation, has focused public attention on Federal natural resource policy. This report examines the evolving Federal role in land use and conservation policy, with particular attention to "partial interests" in land.

Partial interests in land include conservation easements, mineral rights, farmland rental agreements, and other elements of land ownership. Partial interests in a particular tract of land can be held and traded separately, presenting opportunities for public agencies to influence resource use without incurring the political costs of regulation or the full financial costs of outright land acquisition.

Throughout U.S. history, public agencies have used partial interests as policy tools to influence the use of public and private land in ways that accomplish public objectives. Current examples of partial interests used in this way include Conservation Reserve Program (CRP) contracts, Wetlands Reserve Program (WRP) easements, and farmland protection easements acquired by State and local governments (see summary table). In each case, government agencies acquire partial interests on a voluntary basis from private landowners. The importance of partial interests as policy tools was recently reaffirmed by the 1996 Federal Agriculture Improvement and Reform Act, which, in addition to reauthorizing the CRP and the WRP, established a new Farmland Protection Program that increases the Federal role in the acquisition of farmland protection easements.

Partial interests can be acquired and conveyed in many different ways to accomplish a variety of resource use and conservation objectives on both public and private land. Public and private programs differ in the ways in which they acquire partial interests, and also in the participants they attract. While public programs generally pay market value for conservation easements, for example, private programs generally seek donations or bargain sales. The former attract many offers but have relatively high acquisition costs and limited funds; the latter have lower acquisition costs but tend to appeal primarily to wealthier or more conservation-minded donors. Thus, the two types of programs are complementary.

To succeed as resource policy tools, partial interests must be tailored to meet specific program and landowner goals on specific parcels of land, and can thus involve substantial costs in negotiation and settlement. They also require ongoing monitoring and enforcement. These costs may offset savings relative to the political costs of regulation or the full financial costs of outright land acquisition.

To reduce the costs of using partial interests as policy tools, Federal, State, and local government agencies may in some cases find it beneficial to work in partnership with nonprofit organizations that are themselves involved in acquiring and conveying partial interests for conservation purposes.

The value of a particular partial interest is typically estimated as the difference between the value of the underlying land with and without the interest in question. Experience with the valuation of partial interests thus sheds light on recent legislative proposals regarding property rights. These proposals would require compensation whenever Federal agency actions diminish the value of a portion of a property more than a specified percentage, regardless of other economic and legal criteria. Compensation would be determined as the difference between the value of a property with and without the agency action in question. Experience with partial interests suggests that determination of compensation levels under such proposals would require careful case-by-case analysis. Such issues will likely play a central role in the ongoing debate over reauthorization of the Clean Water Act and the Endangered Species Act.

**Summary table—Participation in selected easement and easement-like programs, 1995**

Region <sup>2</sup>	State and local farmland protection programs		Conservation Reserve Program		Wetlands Reserve Program (including emergency signups) <sup>1</sup>	
	Acres	\$/acre	Acres	\$/acre/year	Acres	\$/acre
Appalachia	1,255	1,422	1,158,124	54	18,514	n.a.
Corn Belt	0	—	5,603,333	74	115,621	n.a.
Delta States	0	—	1,248,403	44	148,667	n.a.
Lake States	0	—	3,008,337	59	18,664	n.a.
Mountain	1,904	1,709	6,687,264	40	3,410	n.a.
Northeast	337,092	1,666	226,411	59	6,383	n.a.
Northern Plains	0	—	9,664,110	46	25,254	n.a.
Pacific	56,435	1,725	1,791,182	50	27,910	n.a.
Southeast	0	—	1,692,580	43	5,257	n.a.
Southern Plains	0	—	5,342,989	40	21,798	n.a.
Total <sup>3</sup>	396,686	1,674	36,422,733	50	391,478	600

-- = not applicable. n.a. = not available.

<sup>1</sup>As of August 1996.

<sup>2</sup>Appalachia = KT, NC, TN, VA, WV; Corn Belt = IL, IN, IA, MO, OH; Delta States = AR, LA, MS; Lake States = MI, MN, WI; Mountain = AZ, CO, ID, MT, NV, NM, UT, WY; Northeast = CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT; Northern Plains = KS, NE, ND, SD; Pacific = CA, OR, WA; Southeast = AL, FL, GA, SC; Southern Plains = OK, TX.

<sup>3</sup>Excludes Alaska and Hawaii.