

Partial Interests in Land

Policy Tools for Resource Use and Conservation

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Introduction

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 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. To help policymakers and the public better understand some of the economic dimensions of this debate, 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 partial interests in land.

Partial interests are the constituent elements of land ownership, including rights to use and profit from land. From an economic perspective, interests in land represent expectations about which land uses will be legally permissible over time, as well as expectations about the returns that those uses will generate. 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.

The ways in which land is used depend on who holds what interests within the complex bundle of rights that constitutes land ownership. The public and its representatives, including the U.S. Government, have long played a dual role in shaping the distribution of these rights. First, through legislation, regulation, and court decisions, public agencies help establish and define the distribution of property rights within which markets function. And second, public agencies participate in the resulting markets (for example by buying and selling land and interests in land).

Throughout U.S. history, public agencies have used both of these roles to influence public and private land use in ways that accomplish public objectives. For example, Federal land grants to States, railroad companies, and individual homesteaders encouraged westward expansion in the 19th century. These grants were generally conditioned on the land being cleared, drained, plowed, or otherwise made suitable for productive use. With the closing of the frontier and subsequent land use intensification, public agencies in the 20th century have shifted gradually toward balancing resource use and conservation, both on private lands and on lands that remain in public ownership.

This shift does not represent a growing Federal preference for regulation over market participation (although it has been characterized as such by some) so much as a change in the nature of the public objectives that have always been supported by Federal incentives for private action. Whereas public objectives were served in the 19th century by expanding settlement and production, increased levels of economic activity and a growing population have combined in the 20th century to heighten public concerns about environmental protection and resource conservation.

Federal efforts to meet these concerns have relied on a broad range of policy tools, including both direct and indirect voluntary mechanisms (such as commodity programs, conservation programs, and tax incentives) as well as regulatory means (such as wetland regulations). The continuing importance of partial interests as policy tools is evident in the Federal Agriculture Improvement and Reform Act (the 1996 Farm Bill). In addition to restructuring Federal payments to farmers, the 1996 Farm Bill reauthorized the Conservation Reserve Program and the Wetlands Reserve Program and established a new Farmland Protection Program. This report examines these and other resource policy mechanisms, each of which involves the voluntary acquisition or conveyance of partial interests in land.