Lessons for Resource Use and Conservation Policy

In this report we have examined how public agencies establish and participate in markets for partial interests in land as a means of balancing resource use and conservation. This review of partial interests provides several lessons for resource use and conservation policy.

First, property rights arise out of law, custom, and the operation of private markets. The Federal Government has long played a dual role in shaping property rights to influence land use in ways that accomplish public objectives. Public agencies help establish and define the distribution of property rights within which markets function, and they also participate in the resulting markets, for example, by buying and selling land and partial interests in land.

Second, partial interests can be acquired and conveyed in a variety of ways to accomplish a variety of resource use and conservation objectives on both public and private land. Programs differ in the ways in which they acquire easements, and also in the participants they attract. While public programs generally pay market value for easements, 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.

Third, partial interests need to be tailored on a case-by-case basis to meet specific program and landowner goals on specific parcels of land, and can thus involve substantial costs in negotiation, acquisition, monitoring, and enforcement. In some cases, these costs may even outweigh savings relative to regulation or outright land acquisition (table 7). In part because of the costs of negotiating, monitoring, and enforcement, markets for partial interests in land have thus far remained inactive, although mitigation banking offers an example of a promising market evolution in the case of wetlands. In general, however, it seems most likely that the importance of case-specific easement conditions will continue to make decentralized trading the most reasonable market structure in most situations. Furthermore, the cost comparisons summarized in table 7 suggest that no single policy strategy will be optimal in all situations.

Fourth, to reduce the costs of using partial interests as resource policy tools, Federal, State, and local government agencies may find it beneficial in some cases to work in partnership with nonprofit organizations that have similar objectives. With their ability to act quickly, take advantage of tax incentives, and mobilize local knowledge and support, such organizations can help public agencies acquire and convey partial interests more efficiently. It is critical that potential private partners are well aware of Federal standards with respect to appraisal and acquisition of interests in land, and that they work closely with Federal agencies from the beginning of any acquisition process.

Finally, given thin markets for partial interests themselves, the valuation of partial interests in land requires analysis of markets for underlying properties, recognizing the complications introduced by uncertainty, taxes, and social (nonmarket) values. The fair market value of the easement must then be estimated indirectly as the difference between the fair market value of the land unencumbered by the easement and

Table 7—Relative costs of alternative land-policy strategies

Item	Regulation	Partial interest acquisition	Land acquisition
Negotiation	low	high	medium
Acquisition	low	medium	high
Monitoring	medium - high	medium - high	low
Enforcement	medium - high	medium - high	low
Political	high	low	low

Note: relative magnitudes are intended to be comparable across columns, but not across rows.
Source: USDA/Economic Research Service.

the fair market value of the land encumbered by the easement, where the latter is based on the stream of market returns available to the landowner after the easement is granted. The amount of information available about future returns affects the estimated value of a conservation easement, and may also affect the optimal time of conversion between alternative land uses (depending on case-specific conditions).

In addition to considering fair market value, the role of income, estate, and property taxes must be considered in determining the after-tax value of alternative acquisition and conveyance strategies to particular landowners. In determining whether or not the easement should be acquired, public or private agencies must also compare an easement's market value with the nonmarket or social value of holding the easement, based on the stream of nonmarket or social benefits generated by the land in its easement-encumbered condition. Additional consideration must be given in order to rank multiple easement-acquisition opportunities, or to weigh easement acquisition in particular or environmental protection in general against other public policy objectives. Questions of how much public money to spend on conservation easements, and how to distribute the determined amount according to geographic, environmental, and other criteria, will continue to be decided in the political arena.

Identification and valuation of partial interests shed light on the analytical approach necessary to evaluate recent legislative proposals regarding property rights. These proposals would require compensation not simply when a legal right is taken but whenever Federal agency actions diminish the value of a portion of a property more than a certain threshold percentage—regardless of other legal and economic criteria. Experience with partial interests suggests that determination of compensation levels under such proposals would require careful case-by-case analysis. Analysis of partial interests will likely also play a central role in the ongoing debate over reauthorization of the Clean Water Act and the Endangered Species Act.