

Testimony to the House Committee on Agriculture and Natural Resources

On Conservation Easements

By Linda Highland

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Ranchers and farmers are being coerced into believing that the best choice that they can make for their land use is to place it into conservation easements in perpetuity. Those pushing these easements make it sound like the charitable thing to do for preserving the land from development, bringing many financial benefits, while still having full use of the land.

I first became aware of the unfortunate consequences of conservation easements when The Signal Enterprise newspaper ran an article about farmers in Colorado who lost their land after placing it into conservation easements. They could not afford the penalties and interest in back taxes owed to the IRS who ruled some years later that the appraisals were inaccurate.

In a March 28, 2006 speech in Washington to the Spring Public Lands Conference, IRS Tax Exempt/Government Entities Commissioner Steven T. Miller discussed some of the abuses his agency has seen involving donations of conservation easements. "To be deductible, the transfer of a conservation easement must meet the requirements of the Code and the very detailed rules of the income tax regulations.... Appraisals give rise to many problems. We find, for example, that appraisals of conservation easements often are based on unrealistic assumptions about the highest and best use of the land, are based on an assumption that the entire assets are already in place, are conducted without regard to current zoning law, or are conducted pursuant to inadequate professional standards.... Thus, while there seems to be a popular perception that valuation of the easement is the only issue of concern, there are a myriad of other issues.... We have found that some states are accepting easements for a limited period of time -- for example, 25 or 30 years. After the expiration of the term, the interest reverts to the donor. While a state or other entity may be able to accept such an easement, it is not a conservation easement under Code 4 section 170, and we will allow no deduction for it. A valid conservation easement must be granted in perpetuity."

My next encounter with the appeal for ranchers to place their land into conservation easements was while attending the first Governor's Flint Hills Visioning Summit put together by Kansas Wildlife, Parks, and Tourism. It was there where numerous NGO's and government agencies put together a map showing a vast amount of Flint Hills land already placed into conservations easements. My concern grew when I read in a November 3, 2011 press release by Secretary of the Interior Ken Salazar, announcing:

"13 projects that will restore and conserve America's most significant landscapes – establishing the Flint Hills of Kansas as a new easement-based conservation area.... When President Obama launched the AGO (America's Great Outdoors) last year, he assigned the Secretaries of the Departments of the Interior and Agriculture, the Administrator of the Environmental Protection Agency, and the Chair of the White House Council on Environmental Quality to lead the initiative."

The Kansas River is also included among the “24 projects to restore and provide recreational access to rivers and other waterways.” At the second Governor’s Flint Hills Visioning Summit, the majority of speakers focused on conservation easements that were necessary to “preserve the native prairie.”

Now I ask you, why it is suddenly so imperative that we “preserve the prairie”? Haven’t ranchers cared for the land up until the present day? If a land owner wants to keep their land for agricultural use only, nothing is keeping them from hiring a lawyer and putting it into an irrevocable trust. Giving away money and tax incentives to ranchers and farmers to protect what they already carefully protect seems unjustified. At a time when budgets are in the red, it creates more of a tax burden upon those citizens who pay taxes to cover the costs for implementing conservation easements. Predominantly rural counties, like my home county of Wabaunsee, will be crushed with land values being depreciated by conservation easements. The remaining land owners, who have not signed away their property rights into perpetuity, will be forced into paying more than their fair share of taxes while their neighbor using conservation easements will have tax breaks. Clarice Ryan of Bigfork, Montana puts it best:

“Let’s call it what it is, this is a land grab, being financed by taxpayer dollars. Easement land has lower taxes, but the rest of us must make up the difference in the tax base. Also easement purchases financed not only by local tax dollars but with matching federal funds means the entire country will pay for "your decision". Eventually we can rest assured that these lands, along with their natural resources, will funnel into the hands of the government. The fundamental rights of private property, independence and ability to provide for and control our own lives is in jeopardy due to the conservation easement program. This philosophy is threatening our very way of life that has made us unique among the countries of the world.”

Are these government agencies and NGO’s really taking control of the land for their purposes, and not really that concerned about the property rights of the land owners? As more and more of the prairie comes out of the hands of private property owners, then who is controlling the vast prairie? Does the government really need more land to care for at taxpayer’s expense? Who is behind all of this land preservation frenzy?

Next, I discovered that both political parties have members very concerned about the loss of property rights and freedoms. Democrats Against Agenda 21 carried an article written by Henry Lamb:

“The rise of the environmental movement became the magnet which attracted several disparate elements of social change, now coalesced into a massive global movement, euphemistically described as sustainable development. The first Wilderness Act was adopted in 1964, which set aside nine million acres of wilderness so "our posterity could see what our forefathers had to conquer," as one Senator put it. Now, after 40 years, 106.5 million acres are officially designated as wilderness.... And every year, Congress is asked to designate more and more land as wilderness. Most of this land is already a part of a global system of ecoregions, recognized internationally as "Biosphere Reserves." In the United States, there are 47 Biosphere Reserves, so designated by the United Nations Education, Science, and Cultural Organization, which are a part of a global network of

482 Biosphere Reserves. This global network is the basis for implementing the U.N.'s Convention on Biological Diversity, a treaty which the U.S. Senate chose not to ratify. The 1140-page instruction book for implementing this treaty, *Global Biodiversity Assessment*, provides graphic details about how society should be organized, and how land and resources should be managed, in order to make the world sustainable. This treaty was formulated by U.N. agencies and non-government organizations between 1981 and 1992, when it was formally adopted by the U.N. Conference on Environment and Development in Rio de Janeiro. Consider this instruction from the *Global Biodiversity Assessment*:

"...representative areas of all major ecosystems in a region need to be reserved, that blocks should be as large as possible, that buffer zones should be established around core areas, and that corridors should connect these areas. This basic design is central to the recently proposed Wildlands Project in the United States."

Now consider "this basic design" as described in the Wildlands Project:

"...that at least half of the land area of the 48 conterminous states should be encompassed in core reserves and inner corridor zones (essentially extensions of core reserves) within the next few decades.... Nonetheless, half of a region in wilderness is a reasonable guess of what it will take to restore viable populations of large carnivores and natural disturbance regimes, assuming that most of the other 50 percent is managed intelligently as buffer zones. Eventually, a wilderness network would dominate a region...with human habitations being the islands. The native ecosystem and the collective needs of non-human species must take precedence over the needs and desires of humans."

Even though this treaty was not ratified by the United States, it is being effectively implemented by the agencies of government through the "Ecosystem Management Policy."

The treaty, United Nations Agenda 21, was signed by President George Bush and implementation expanded under President Bill Clinton. The Kansas Republican Party has adopted a "Resolution Exposing United Nations Agenda 21". At this time thirteen state Republican National Committee Men and Women, as well as, state Republican Chairmen have signed on in support of the Resolution, now for consideration by the National Republican Party.

Many of the agencies involved in implementing "sustainable development" outlined in the UN Agenda 21 have not fully taken into consideration the impact upon the lives of US citizens when all of the plans are put into fruition. Conservation easements are a part of these plans that have not been explained in enough detail for land owners to weigh the risks involved. I charge this Agriculture and Natural Resources Committee with the responsibility of exposing the truth about conservation easements and stopping their expansion. The mission, I believe, is not about conservation. It is a scheme to place government in control of once carefully protected private land.