**Conservation Easements**

**Quick Facts & Responses**

**Question 1:** *What are Conservation Easements*?

**Response 1:** Conservation Easements (CEs) are permanent, land-title encumbrances authorized by Congress[[1]](#footnote-1) to protect lands of *unique* value. CEs cede specific, enforceable rights from land owners to 3rd parties, and can be described as shared management between land owners and land trusts - or the federal government. Typically, CEs impose restrictions on structures, road improvements, vehicular use, road maintenance, and agricultural activities; they usually *eliminate* oil, gas and mineral exploration, and can create problematic, split estate ownership issues. Many CEs require “buffer zones” to be created around springs, streams or ponds to inhibit livestock access.

**Question 2:** *Aren’t Conservation Easements Voluntary*?

**Response 2:** Use of the word “voluntary” is misleading because it assumes the impact from CEs is solely limited to the land owner. In contrast, CEs can reduce the value of neighboring lands, erode the state and local tax base, impact adjacent properties, and provide a mechanism for unwanted plants or animals to be introduced into the region, affecting counties, neighbors and other landholders.

**Question 3:** *Shouldn’t property owners be able to do what they wish for their land, without interference*?

**Response 3:** The negative effects of CEs can reach well beyond landowners, creating a nuisance for adjacent landholders, local governments and the state alike. Because CEs are *specifically* designed to depreciate land values, adjacent parcels can - and usually are - devalued as well. As example, if the owner of a parcel hosting a conservation easement elects to release endangered species on their property, those species can and do propagate to nearby lands. Examples of such introductions, in Kansas, include uncontrolled prairie-dog infestations to neighboring properties resulting from government-funded introduction of Black-footed ferrets.

**Question 4:** *Do Conservation Easements Devalue Property*?

**Response 4:** One *function* of CEs is to devalue property, including the assessed value of lands for taxation purposes. Over time, CEs have had the unintended result of the Federal government influencing local land use policy thorough the granting of tax exemptions.

**Question 5:** *Are there potential tax implications to the State and local governments from Conservation Easements*?

**Response 5:** Yes. Because CEs can result in an overall land devaluation, tax revenues into state and local governments can be reduced for parcels encumbered by them.

**Question 6:** *Why is legislation giving local governments authority to regulate conservation easements necessary*?

**Response 6:** County governments already possess broad statutory authority to enact zoning, nuisance, infrastructure, safety, and other standards under state home rule statutes and neither land trusts nor CEs are regulated by outside entities. Because local governments are the closest representatives to the people, they are in the best position to understand notification or other reasonable land use needs. This brings decision-making to the local level, closest to those who own, work and reside on lands affected by CEs.

**Question 7:***Should potential legislation require counties to regulate conservation easements or otherwise enact standards*?

**Response 7:** No. Future and necessary laws should give local governments the authority to oversee CEs, but not require them to do so.

**Question 8:** *What types of standards should be contemplated by future**legislation*?

**Response 8:** Examples ofpotential requirements could be notification of adjacent land holders or providing opportunities for public comment before the conservation easement occurs on the land title.

**Question 9:** *Are there unforeseen problems with Conservation Easements*?

**Response 8:** Because CEs are permanent land restrictions that are removable only by land trusts or the federal government, the long-term implications of sequestering land are unknown and should be examined. Future generations may also question both the lack of trust CEs impose on their decision-making ability, as they, for their part might have “values” that differ from the current land owners. Should the next generation not be afforded the ability to decide and apply their own values to the land?

1. (26 U.S.C. 170(h) Pub. L. 96-541. [↑](#footnote-ref-1)