

## Top Ten Reasons to Be Skeptical About Voluntary Conservation Easements

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1. Paying to stop unwise land use is *expensive*; paying for easements through the tax system makes the fiscal burden less visible, but it does not eliminate it.
2. Voluntary conservation easements raise *social equity* concerns, because owners are paid to restrict their land but the restrictions may have little or no adverse effect on the value of the land; indeed, easements restrictions can sometimes increase land values.
3. A voluntary approach does not address the central problem in environmental law, the *hold-out problem*; it creates the risk that a few irresponsible land owners will undermine efforts to achieve conservation goals at the landscape, watershed, or ecosystem level.
4. Voluntary conservation easements are likely to be *relatively ineffective*; those most likely to donate or sell easements voluntarily are likely to have little or no intention of changing land uses; those most likely to change land uses in the near future will be least likely to volunteer.
5. Voluntary conservation easements tend to *privatize* important decisions regarding land use that arguably should be made primarily through the democratic process.
6. The chief asserted benefit of conservation easements is that they provide *permanent protection*; but permanence is problematic given that social, economic, and even ecological conditions will change over time; permanent restrictions also limit choices available to future generations; on the other hand, if easements do not achieve permanent results, they will deliver less than advertised and raise the question of what process will be used to lift restrictions.
7. Easements are *very, very difficult to appraise*, because the amount and nature of the property placed under restriction vary so widely, and because the terms of different easements differ so much, creating serious risks of abuse.
8. Easements that do not provide *public access* use public funds to achieve what can most easily be achieved through regulation and fail to use public funds when it is needed most.
9. Conservation easements create a *strained marriage* between different property interest holders that will only get worse, probably far worse, over time; non-profit easement holders may lack both public accountability and the resources and resolve to monitor and enforce compliance.
10. The idea that landowners should conserve only when the taxpayer pays them conflicts with what Aldo Leopold called the imperative of developing an American "*land ethic*."