

U.S. Set to Take Coloradans Land Without Compensation

By Fred Kelly Grant

At this very hour, Colorado landowners are fighting to prevent the United States federal government from taking their land. Ignored by the mass media, hundreds of farmers and ranchers in southeastern Colorado are facing loss of their property at the hands of the IRS. They are victims of “conservation easements” promoted by federal and state governments, land trust companies, and conservation groups.

As landowners dedicated to preserving the open, agricultural use of their land, lured into the “easements” by both the U.S. and Colorado governments, they have been betrayed by those they trusted.

A “conservation easement” is an easement in name only. It is an agreement by a landowner to give up the right to develop his or her land for residential, commercial or industrial use. He/she agrees to keep the land in agricultural use FOREVER, and in return is rewarded either with cash payment for the development value, or income tax relief to the amount of the appraised value of the development rights.

The federal government and the state of Colorado offered inducements for execution of the “easements” by which the landowners donated their land to various land trusts to be held for agricultural use IN PERPETUITY. They accepted the following offers of income tax relief, conditioned upon execution of the easements: federal income tax deductions, and tax credits from Colorado income tax, or the right to sell such tax credits to third parties or the State itself.

In reliance on commitments from the two governments, the landowners donated their land to various land trusts, mainly for two reasons: they wanted to preserve their land as agricultural land forever, and they faced cash flow problems which could be helped by the tax relief. So, they gave away the value of development rights in exchange for tax relief. In most cases, the development rights were far more valuable, money wise, than the assessed land value. But, the landowners placed their desire for continued agricultural use above the interest in a future much higher profit.

The landowners followed the rules. They engaged consultants to help them put together the donation package. They hired appraisers certified by the state of Colorado as honest, ethical, and competent. They had certified public accountants review the appraisals and their financial situations. They hired lawyers to make sure the law was followed in the transactions.

They asked that all this professional help assure them that the Land Trust company, which would own the easement, was trustworthy.

But, after two to three years, one of the donee Land Trusts invited the IRS to review the easement appraisals. That invitation didn't worry the landowners because they had obtained professional assistance and had been assured they were following the rules.

But, suddenly the IRS announced disqualifications of “easements,” claiming that the appraisals of development rights were highly overstated. The State of Colorado called into question the licenses of several appraisers (all appraisers who have sought full reinstatement have been successful), and the mass media began to talk of a “scandal,” and “sham” appraisals, and cast the landowners as greedy people looking for windfalls. The media reached its libelous conclusions without reviewing the files and determining the facts. But, what’s new? As Will Rogers said, “If you don’t read the newspaper you are **uninformed**, if you do read the newspaper you are **misinformed**.”

In one case, for example, the appraisal of the development rights was challenged by an IRS employee who claimed that the appraiser did not use any comparable realty values in the vicinity. The statement is either an outright lie, or the grossest negligence in history. Within a quarter-mile of the appraised land is a subdivision of high scale homes, and within a half mile is a subdivision of even a higher scale homes situated on a finely groomed golf course.

The appraised land is within two miles of the city limits and a regional hospital. The landowner has water rights that accompany the appraised land, and the land has available water access, which would serve residential parcels very efficiently. Whether the IRS conclusion is a lie may rest on the fact that the federal employee judging the appraised value is not an appraiser, and has been exposed to land appraisal training for a **solid two hours**.

The IRS has demanded payment of back taxes, plus penalties and interest. In some cases, the demand is higher than the value of the landowners’ property, now that the “easements” have devalued the property. The third parties who bought state tax credits have demanded return of their money. The state of Colorado has turned its back on the landowners, which it lured into the conservation easements. The Governor’s office turns back requests for assistance with the spurious claim that the matter is a “federal” issue. The Secretary of Agriculture, who lives among the troubled landowners, ignores the problem.

The landowners cannot borrow money to satisfy the “return” demands. The banks will not lend money because of the conservation easements, which devalue the land.

The landowners cannot sell their land, or any portion of their land. Buyers are not willing to take on the restrictions and devaluation of the land resulting from the conservation easements. One of the ranchers had a sale in place for a portion of his property. The sale price would have allowed him to replace at least 75 percent of his imminent loss, but the buyer backed out because of the conservation easement.

As the federal and state governments pursue destruction of these landowners, they continue to promote conservation easements. Land Trust companies and conservation groups continue to promote conservation easements, and the Congress created tax incentives in the new Farm Bill that will lure other landowners into reliance on a government, which has proved unreliable.

Colorado at this moment faces a huge federal take-over of private land, which will remove thousands of acres from the tax rolls of the counties. And, the problem in southeastern Colorado

is only the tip of the iceberg. There are over 1,800 of these conservation easements throughout Colorado. In the blink of an eye, Colorado can be victimized by massive federal take-overs.

The problem facing Coloradans and Colorado is the beginning of what can be, and will be, a national crisis resulting from transfer of private ownership of land to the United States Government. Counties will suffer from loss of tax revenue; the landscape will suffer from negligent management by federal agencies; the species in the ecosystems will suffer from negligent management; and the law will suffer from a blatant disregard for the constitutional limits on federal government ownership and requirements that property is not taken without just compensation.

All the horrible results from imposition of conservation easements, which private property organizations including Stewards of the Range and the American Land Foundation have emphasized, have come to fruition in southeastern Colorado. They lay ahead for unsuspecting landowners across the Nation.

What you can do to help:

As the governments and Land Trusts turn their backs on the landowners, all individuals in the nation can help. You can call, fax and email your Representatives and Senators who are seeking re-election. You can ask them what they are doing, or will do, to protect private landowners as they protected big business in the massive “bail out” of Wall Street. You can tell them that your vote depends on their willingness to help. You can demand of incumbents that there will be field hearings to determine the truth as to the inadequacy of the IRS reviews. You can demand that they hold field hearings to inquire into, and “fix”, the fraud that is evident on the part of the promoters of the conservation easements.

If you live in Colorado, you can call, fax and email the Secretary of Agriculture and the Governor, demanding that they “fix” the problem caused by fraud perpetrated on the landowners. And, you can write letters to the local and regional newspapers and television stations demanding that they determine the facts, rather than relying on press statements by leaders of the Land Trusts who are complicit in the threat to the landowners. The landowners are ready and willing to show the press the facts as they did to me.

Fred Kelly Grant serves as president of Stewards of the Range and has practiced law for over 50 years. He, along with Stewards of the Range and American Land Foundation are assisting landowners nationwide on property rights issues.

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This article was distributed by Liberty Matters, Stewards of the Range and the American Land Foundation.

American Land Foundation
PO Box 1033
Taylor, Texas 76574

512-365-2699

Stewards of the Range

PO Box 1190

Taylor, Texas 76574

512-365-8038

www.stewards.us