

# THE DEWEESE REPORT

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## Conservation Easements and the Urge to Rule

By Tom DeWeese

Conservation easements. The Green Mafia tells us this is the only way to save the family farm. Without its tax credits and restrictions on development rights, America will be paved over and Astroturf will replace sod. We're in crisis, they tell us. However, as H.L. Mencken once warned, "A plan to save humanity is almost always a false front for the urge to rule."

Conservation and environmental groups openly advocate the conservation easements as the answer to saving farm land, as do state departments of agriculture, farm bureaus, and the federal government. A full court press is on to lock in millions of acres of private property under the blazing headline "Save the Family Farm."

There's no question that the family farm is under assault. Taxes, international trade agreements, inflation, and government regulations are eating away at the ability to keep the farm operating. I've never met a farmer who wanted to give up and stop working the land that perhaps his ancestors first acquired. In most cases it's agony for a farmer to decide to sell his property. On the other hand, the land is his main asset. To provide a good life for the family, selling the land, many times to developers is necessary for survival.

However, there is now a much more lethal threat facing small farmers, and the outrageous fact is, this threat is being disguised as a way to help them. The real threat is the green solution - "conservation easements." And farmers are falling into its trap across the country.

Conservation easements are promoted by land trusts and environmental groups. Tax breaks are promoted. Even cash is offered those farmers willing to sell their development rights, under the argument

that this will drive away the temptation to sell the land to nasty developers, thus keeping it farm land. The clever slogan, "farm land lost is farm land lost forever" helps sell the case for easements.

The promoters of such ideas are very good with the sales pitch. If it were politically correct to do so, one could actually hear "God Bless America" playing in the background as the promises to save the family farm roll off the pitchman's tongue.

Say proponents, "A conservation easement is a voluntary perpetual agreement that restricts non-agricultural uses such as mining and large scale residential and commercial development." They boldly promote the easements by promising that "the landowner continues to own, live on and use the land." They even promise that the land can be passed down to heirs, along with generous tax credits. What's not to like? Desperate farmers are flocking to the pitchman's wagon to buy his life-saving potion.

Of course, as another famous pitchman, P.T. Barnum, once said, "there's a sucker born every minute." Farmers beware the slick talker who has the answers to your woes. His answers may well be your demise - and your farm's. It's wise to read the fine print of a conservation easement agreement. Here are some facts.

### The facts about conservation easements

In a typical conservation easement, a private Land Trust organization purchases some or all of the "bundle" of a property owners rights. The bundle includes development rights for the property; the ability to overrule the owner's choice of how to use the property,

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including adding more buildings or renovating or rebuilding existing buildings; in the case of farmers, it may include decisions on which fields to use for planting, or even which crops to grow and the technique to be used. All of these things come under the command of the easement. And all of it may become the decision of the Land Trust, because once the conservation easement agreement is signed the owner's rights are legally subservient to his new partner, the Trust.

True, in exchange, the property owner receives charitable deductions on federal taxes based on the difference between the values of the land before and after granting the easement. The property owner receives relief from federal estate or inheritance taxes. Many states provide income tax credits and property tax relief. And the owner receives a payment for his development rights.

In the beginning it all sounds good. Money in the pocket; the farm safe from development; and the ability to practice the beloved tradition of farming. Well, maybe.

The fact is, under the easement, the owner has sold his property rights and therefore no longer has controlling interest in his property. Through the restrictions outlined in the easement, property usage is now strictly controlled, including everyday decisions on running the farm. In many cases, the Conservation group that controls the easement demands strict adherence to "sustainable" farming practices." That means strict controls on how much energy or water can be used in the farming process, access to streams for the livestock, use of fertilizer, etc, are all under the direction of the Land Trust. And there's more. Certain details weren't revealed to the land owner as he signed on the dotted line. For example:

- Trusts often re-sell the easement to other

conservation groups. They sell and resell them like commodities. The farmer may not know who holds the control over his land. For these groups, the easements become a significant profit center as they rake in fees for each new easement they sign up.

- Worse, the conservation group may work directly with government agencies, helping to establish new regulations which alter best management practices, driving up compliance costs. Eventually these cost increases can force owners to sell their land at a reduced price.
- This is especially effective when trying to dislodge a land owner who has refused to sell his land to the government or sign a conservation easement. The Nature Conservancy is a master at this trick, creating millions of dollars of income for the group. Its favorite practice is to tell the land owner that the government intends to take the land, but if they sell to the Conservancy then it will guarantee that the land will stay in private hands. But of course, since the government intends to take the land it is now worth much less. So they get the landowner to sell at a reduced rate. Then the Conservancy calls the government agency to tell them the good news that they have the land. And the agency pays the Conservancy full market value. They call that "Capitalism with a heart!!"
- Because ownership rights are muddled between taxes, restrictions and best practices requirements, it can be difficult to find a buyer willing to pay a fair market price for the land. In a sense, once the easement is signed, the owner has just rendered his land worthless on the open market.
- Conservation Easement deeds use broad language that expands the trust's control but very specific language that limits the landowner's rights.

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# Who said it???

*Were these statements made by some of the most dangerous villains in human history? The enemies of freedom? The promoters of totalitarianism? Communists? Nazis? Fascists?*

*Answer all the questions before looking at the answers.*

Who said it?

**1) "We're going to take things away from you on behalf of the common good."**

- A. Karl Marx
- B. Adolph Hitler
- C. Joseph Stalin
- D. None of the above

**2) "It's time for a new beginning, for an end to government of the few, by the few, and for the few..... And to replace it with shared responsibility for shared prosperity."**

- A. Lenin
- B. Mussolini
- C. Idi Amin
- D. None of the Above

**3) "(We) .....can't just let business as usual go on, and that means something has to be taken away from some people."**

- A. Nikita Khrushchev
- B. Josef Goebbels
- C. Boris Yeltsin
- D. None of the above

**4) "We have to build a political consensus and that requires people to give up a little bit of their own ... in order to create this common ground."**

- A. Mao Tse Tung
- B. Hugo Chavez
- C. Kim Jong Il
- D. None of the above

**5) "I certainly think the free-market has failed."**

- A. Karl Marx
- B. Lenin
- C. Molotov
- D. None of the above

**6) "I think it's time to send a clear message to what has become the most profitable sector in (the) entire economy that they are being watched."**

- A. Pinochet
- B. Milosevic
- C. Saddam Hussein
- D. None of the above

## Answers

(1) D. None of the above. Statement was made by Hillary Clinton 6/29/2004

(2) D. None of the above. Statement was made by Hillary Clinton 5/29/2007

(3) D. None of the above. Statement was made by Hillary Clinton 6/4/2007

(4) D. None of the above. Statement was made by Hillary Clinton 6/4/2007

(5) D. None of the above. Statement was made by Hillary Clinton 6/4/2007

(6) D. None of the above. Statement was made by Hillary Clinton 9/2/2005

## Michelle Obama's Farmer's Market Resorts to Fat, Sugar, and Salt for Sales

A persistent myth in the food policy world, spread most forcefully by First Lady Michelle Obama, is that the nation can conquer obesity through the power of farmers' markets. This is typically positioned against the supposed evils of a “food industry” fingered by book authors chasing residuals cash for using ingredients like salt, sugar, and fat to “hook” “victims.” A trip to the farmers' market, however, shows that salt, sugar, and fat are just ingredients that have been used by humans to make the drudgery of eating worthwhile since time immemorial.

We recently visited Mrs. Obama's local farmers market, which shuts down part of a street by Washington, D.C.'s McPherson Square every Thursday in the summer. The reality—a tasty lunch, complete with the supposedly evil salt, sugar, and fat—doesn't exactly fit with the rhetoric. Reportedly, the idea for the market right in downtown D.C. was hatched to help federal bureaucrats eat healthier lunches.

And in 2009, when the farmers market opened, President Barack Obama said this:

“It gives suddenly D.C. more access to good, fresh food, but it also is this enormous potential revenue maker for local farmers in the area [...] And those kinds of connections can be made all throughout the country and has to be part of how we think about health.”

Well, our visit suggests that that statement is only about two-thirds true. The food looked good and fresh, and the weekly opportunity to sell their wares to K Street lobbyists and federal bureaucrats is probably a nice way for the farmers to fatten their wallets.

But as for the “how we think about health” claim, the reality is more “how we think about a tasty lunch.” Sure, there were a couple of well-stocked fruit stands (that looked no more fresh or well-stocked than a typical grocery's produce section), but most of those employees eating lunch were lining up for the tasty items. And despite the protestations that salt, sugar, and fat are exclusively the province of the “industrial food system,” all three were available and plentiful.



Salt? Oh, there was salt. Salt in cheese, sausages, and on popcorn.

Sugar? FLOTUS's farmers brought the sugar, in lemonades, cookies, and specialty candies.



Fat? There were fatty cheeses, fat-laden pizzas, and even deep-fried catfish bites.

Now, there is nothing wrong with any of these products. Any of these foods can make a good, if somewhat expensive, lunch. But then again, so does a quick-service restaurant meal. Whether the food is “organic”—which scientific authorities find doesn't mean healthier or more nutritious—or comes in a paper bag, people value taste and convenience, as they always have.

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## Conservation

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When productive land is taken off the tax rolls, a revenue shortage is created that has to be made up by other tax payers, causing rate hikes in property taxes and other tricks the government can come up with.

**Some are more equal than others**

All of the combined dangers from conservation easements, and all of the combined powerful forces of land trusts and governments seemed to land on the head of one innocent, lovely lady named Martha Boneta. Her story made national headlines last year and led to a colossal battle in the Virginia state legislature – a battle that continues to rage today without resolution.

In Fauquier County, Virginia, where Martha (and I) reside, the chief “conservation” group is a behemoth called the Piedmont Environmental Council (PEC). They have managed to work their way into every nook and cranny of the county, specifically in the county government. PEC people have bored deeply into the county development office and other county agencies; they converge on farmers to pressure the establishment of conservation easement, and they make a ton of money from them. It’s good to be king.

In fact, PEC holds sway over nine Virginia counties and they brag that they have succeeded in “helping citizens protect nearly 350,000 acres” of land with “voluntary conservation easements.” PEC calls it one of the most dramatic private land conservation successes in the nation. It is interesting to note that those nine counties, in particular Fauquier County, are the main center of the famous Virginia horse country where, throughout Virginia history, the rich landed gentry have had the pleasure of riding their horses across vast open land in organized fox hunts. These horsey people are rich and powerful with vast estates in the country side. Many have contributed to the PEC land conservation effort as a way to keep open space available for their fox hunting pursuits.

It is also interesting to note the comments and attitudes often expressed by these people concerning new comers to the county. Say the horsey gentry, there must be a way to curtail new people from coming into the county and buying or developing property. That’s because, they charge, these newcomers have no understanding or respect for the age old tradition of riding their horses over the land that now gets fenced in or blocked by these unwanted intruders. How dare they

do that to their own land! The answer to their desire to stop it – the PEC.

At a January, 2013 meeting of the Fauquier County planning commission, it was revealed that 96,600 acres of county land is in conservation easements (or 23% of the total land mass of the county). A little research revealed an interesting detail. It seems that, as the conservation easements are sold to the public as a way to save the small family farm, in reality, of the 23% of the land, only 2% of it is actually small family farms. The rest is basically the vast estates of the landed gentry who have found a way to not only keep the land open for their fox hunts – but to also reduce their property taxes.

Last year, when I presented these statistics in a talk in Richmond, Virginia, a member of the Piedmont Environmental Council commented that he “never thought he would hear a Conservative advocate class warfare.” Actually, I was trying to prevent it.

**Martha’s plight**

Into this atmosphere, enter Martha Boneta. If one were to write down all of the requirements as expressed by the Greens for their idea of the perfect small farmer, Martha Boneta would be their poster child. Martha just wanted to farm. She loves it. And she is very creative about it. It was her dream come-true when she found the small farm in Paris, Virginia. It had been on the market for at least six years. And so she was able to purchase it at a very reduced price from the Piedmont Environmental Council.

Everything was looking great for a lady anxious to get her hands in the dirt. She is into organic farming – just like the PEC advocates in their publications, web site and bumper stickers – “Buy Fresh, Buy Local.” Martha made the farm a haven for rescued animals. She restored the heavily deteriorated barn and turned it into a small farm store to sell her products – items produced right there on the farm.

Oh yes, there was just one small detail brought up at the very last minute during the closing meeting for her mortgage loan as she was purchasing the property. The Piedmont Environmental Council slipped in a conservation easement on the property. This specific easement did not pay any cash to Martha nor did it

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provide any tax credits. All the benefits went to PEC. Martha signed the document because she had been told conservation easements were a way to protect the farm from being developed. She was for that.

But there is one major aspect of Martha's value system that doesn't fit the PEC profile for the perfect small farmer. She believes in private property rights. And that's when the trouble started. Space does not allow a full description of the battles Martha has faced over her attempts to farm her land. Here is the "Cliff notes" version:

Martha does not live on the farm, she owns a home in another location. The conservation easement she signed said she could have a small 1600 square foot residence on the property. She never used the facility as a residence.

The Fauquier County planning board suddenly issued notice that Martha would be fined for selling items that were not produced on her farm, something she never actually did, and that she needed another permit in order to use the facility for events.

She was immediately threatened with fines of \$5000 for each violation brought by the County. The evidence used against her by the county was a photo of a children's birthday party that Martha had posted on her face book page, allegedly proving that she had rented out the barn for a party. In fact, it was a private party for friends. No money exchanged hands for the facility. But the battle was on.

Martha began to learn what a powerful weapon conservation easements can be in the hands of those who wanted to control her actions. The easement gave the PEC the right to occasionally inspect the property for "violations" of the easement. Suddenly Martha was informed that PEC inspectors would visit the farm to investigate the "living quarters." Rather than a random occasional or annual visit, PEC came back again and again; demanding to look into her private closets; even banning her right to video tape the inspections on her own property.

The PEC found fault with a simple water nozzle Martha had purchased to use in washing her animals. Somehow that was a violation. There is an

old cemetery on the property dating back to 1832. In it are buried the families of former residents of the area and black slaves. To keep the farm animals from walking through the cemetery, Martha installed a simple fence. "Violation," said PEC, "It damages the view shed." On and on went the harassment over such idiotic claims. Along with it came thousands of dollars of legal expenses as Martha fought to defend herself.

Eventually, as a result of non-stop pressure and the threat of fines from the County, plus the pressure from PEC, Martha was forced to close her farm store, seriously damaging a major part of her ability to earn income from the farm.

What was her real crime? She had challenged county planning restrictions. And in doing so, she had become a threat to their authority and that of the PEC, which is the driving force behind county controls over private property.

### **Non-Governmental Control = Government Corruption**

Every American, especially farmers, should learn this lesson from Martha's story: conservation easements, comprehensive planning, and controls over private property, while always sold as a way to help, are actually a Trojan Horse of corruption.

If there is a poster child in this story it is the government of Fauquier County. Corruption begins with the absolute influence and power unleashed by a non-governmental organization like the Piedmont Environmental Council. It is aided by an elite few who seek to use government power for their own personal gains. And it is enforced by a compliant county Board of Supervisors that will use that power as a weapon to crush anyone who dares stand up against them.

Beware America! Unfortunately, Martha's story is not unique. Every community has its own version of the Piedmont Environmental Council calling the shots behind the scenes. Their very agenda of power, and the corruption it brings, is now showing itself in every local and state government - all under the over-used and unsubstantiated excuses of environmental protection and "local planning." ●

## Polar Bear Population Growing Despite Declining Sea Ice Great News! But Where Is The News Coverage?

Exciting news about polar bears in eastern Canada: a new peer-reviewed paper concludes that despite sea ice having declined since the 1970s, polar bear numbers in Davis Strait have not only increased to a greater density than other seasonal-ice subpopulations, but it may now have reached its 'carrying capacity.' This is great news. But where is the shouting from the roof-tops? This peer-reviewed paper was published February 19, 2013. No press release was issued that I could find and consequently, there was no news coverage. Funny, that. --Susan Crockford



Cheers!

### **President Barack Obama's approval rating dropped eight points from last month.**

The CNN survey found that 45 percent of respondents approve of the president, while 54 percent disapprove. In mid-May, the numbers were essentially reversed -- 53 percent approved and 45 percent disapproved. Americans under 30 flipped by 17 points against Obama, according to the poll. Half of the respondents said they do not feel that he is honest and trustworthy -- a nine-point drop from last month.

The public disapproves of surveillance, and 43 percent of people think the administration has gone too far in sacrificing civil liberties in the name of fighting terrorism, the CNN poll found. A recent HuffPost/YouGov poll found that 45 percent of Americans feel Obama is doing a poor job when it comes to protecting constitutional rights. The CNN poll found that 61 percent of people disapprove of surveillance efforts, while 35 percent said they approve.

The numbers suggest that the president's approval level has been damaged by the revelations that the NSA is surveilling Americans' phone and Internet activities, and the president's support for such programs.

# The Drone Threat

By Ron Paul

(Recently)... Senators threatened to put a “hold” on the nomination of John Brennan to be CIA director over his refusal to answer questions about the use of drones to kill Americans on US soil. That the president’s nominee to head the agency that has used drones to kill perhaps thousands overseas could not deny their possible use at home should be shocking. How did we get to this point?

The Obama administration has rapidly expanded the use of drones overseas, as they appear a way to expand US military action without the political risk of American boots on the ground. In fact they are one of the main reasons a recent Gallup survey of Pakistan, where most US drone strikes take place, found that 92% disapprove of U.S. leadership. This is the lowest approval rate Pakistan citizens have ever given to the United States. And it is directly related to US drone strikes. The risk of blowback increases all the time. However the false propaganda about the success of our drone program overseas leads officials to believe that drones should also be used over US soil as well.

In attempt to ease criticism of the use of drones against Americans, some in Congress propose more oversight, as if that should make us feel any better. In last week’s hearings, CIA nominee Brennan suggested that he was open to a Congressional proposal to set up a secret court to oversee the president’s program to kill Americans by drone. Should we cheer that a court selected by government officials will meet in secret to oversee the president’s secret decisions on killing Americans without charge or trial? Has the Constitution been so eroded that we accept such a horrific and terrifying prospect?

While touting the success of its overseas drone program, the US administration refuses to even admit publicly that the CIA has an overseas drone program. In response to a recent ACLU

Freedom of Information request regarding the existence of the CIA’s drone program, the Department of Justice responded, “the very fact of the existence or nonexistence of such documents is itself classified.” How is that for government transparency?

Recently, Federal Aviation Administration official, Jim Williams, stated that no armed drones would presently be permitted in US airspace. But what good are the promises of government officials when the Constitution, and especially the Fourth Amendment, has been gutted? More than 1,400 applications to use drones in US airspace have been approved, including for police, universities, and at least seven federal agencies. Do we want to live in a society where the government is constantly watching us from above? The East Germans and Soviets could only dream of such technology in the days of their dictatorship. We might ask ourselves how long before “extraordinary” circumstances will lead to a decision to arm those drones over US territory.

The US government justified its attack on Saddam Hussein in Iraq and against Gaddafi in Libya, and elsewhere, with claims that these despots were killing their own citizens without trial or due process. It is true that extra-judicial killing is the opposite of justice in a free society.

As Judge Andrew Napolitano wrote... about the president’s assassination program, “When [the president] kills without due process, he disobeys the laws he has sworn to uphold, no matter who agrees with him. When we talk about killing as if it were golf, we debase ourselves. And when the government kills and we put our heads in the sand, woe to us when there is no place to hide.”

*Former Texas Congressman Ron Paul and candidate for President of the United States* ●