

Sharing the Responsibility:

What Agricultural Landowners Think About
Property Rights, Government Regulation and the Environment




American Farmland Trust



American Farmland Trust

American Farmland Trust is a private, nonprofit, membership organization founded in 1980 to protect our nation's agricultural resources. AFT works to stop the loss of productive farmland and to promote farming practices that lead to a healthy environment. Its action-oriented programs include public education, technical assistance in policy development and direct farmland protection projects. Basic annual membership is \$20. For membership information, contact the National Office.

National Office
1920 N Street N.W., Suite 400
Washington, D.C. 20036
Phone: (202) 659-5170
Fax: (202) 659-8339
www.farmland.org

For ordering information, please contact our Publications Department at (800) 370-4879.
©June 1998 American Farmland Trust Printed on recycled paper using soyink

Sharing the Responsibility:
What Agricultural Landowners Think About
Property Rights, Government Regulation and the Environment

Results of a Nationwide Survey

Summary and Analysis

June 1998

by Edward Thompson, Jr.
Senior Vice President for Public Policy
American Farmland Trust

Acknowledgements

The author wishes to thank all those who contributed to this research report, including Professor Dick Esseks and his colleagues at Northern Illinois University and Southern Illinois University; AFT senior advisor Gordon Binder; AFT professional staff members and outside experts who reviewed the manuscript and made many helpful suggestions, as well as Kerri Larkin and others who helped prepare it for publication. AFT's gratitude also extends to those whose generous financial support made this research possible:

Geraldine R. Dodge Foundation, Inc.
Henry Jackson Foundation
McKnight Foundation
Richard King Mellon Foundation
Natural Resources Conservation Service, USDA
Surdna Foundation, Inc.
True North Foundation
Turner Foundation, Inc.
Robert W. Woodruff Foundation, Inc.

Last but certainly not least, my thanks to Bill Reilly, Chairman of the AFT Board of Directors, whose dedication to improving America's use of its precious land has inspired us all.

Edward Thompson, Jr.

**Sharing the Responsibility:
What Agricultural Landowners Think About Property Rights,
Government Regulation and the Environment**

Results of a Nationwide Survey by American Farmland Trust
Summary and Analysis

by Edward Thompson, Jr.
Senior Vice President for Public Policy

Table of Contents

Executive Summary	iv
Introduction	1
How We Did the Survey	3
Survey Results	5
The Impact of Current Regulations on Property Values	5
Regulations, Voluntary Incentives and Free Market Approaches to Conservation	7
Protecting Farms from Conflicts with Development	8
Reducing Nonpoint Source Water Pollution from Livestock and Logging Operations	8
Protecting Wetlands and Endangered Species	9
Factors to Consider in Determining Eligibility for Compensation	10
Traditional Values	11
Balancing Private Burden and Public Harm	12
Offsetting “Givings” and “Takings”	13
Automatic Compensation for a Specified Percentage Devaluation of Property	14
Conclusions and Recommendations	16
Endnotes	
Appendix	
List of States and Counties Included in Sample	
U.S. Map of States and Counties	
Text of Survey Questionnaire	

List of Tables

Table 1 — Profile of Agricultural Landowners Surveyed	4
Table 2 — Percentage of Landowners Reporting Loss of Property Value Due to Regulation	6
Table 3 — Regional Differences in the Impact of Regulation	7
Table 4 — Landowner Preferences for Alternative Conservation Approaches	9
Table 5 — Factors to Consider in Determining Who Should Receive Compensation	11
Table 6 — Compensation to Balance Givings and Takings	14

List of Figures

Figure 1 — Preferred Approaches to Farmland Protection	8
Figure 2 — Landowner Opinions on Legislation Defining “Takings” as a Fixed Percentage Loss	15
Figure 3 — Who Should Pay to Protect the Environment?	15

Foreword

by Ralph Grossi
President
American Farmland Trust

My family's ranch in California is within sight of the San Francisco suburbs, occupies the watershed that supplies thousands with their drinking water and is habitat for everything from redwoods to mountain lions — not to mention beef cattle. As a private property owner, I understand how my suburban neighbors depend on me to protect "their" environment. My family and I do our best to live up to this responsibility. But I also understand the anxiety and frustration of agricultural landowners when the public seems to ask them to bear too much of the burden of environmental protection. It is not without cost.

Finding an appropriate balance between environment and economics is what I have to do every day as a rancher, and it is what American Farmland Trust (AFT) seeks to promote in advocating public policies that will help landowners keep land in agriculture and farm it in a way that will improve environmental quality.

AFT has a lot at stake in the property rights debate and landowners' role in it. Our policy research has confirmed that a combination of reasonable regulation and compensatory financial incentives to landowners is the best way to save farmland and encourage good environmental stewardship. Many of the federal, state and local government programs AFT has helped design and promote feature such a balance of "carrots and sticks." Yet, the increasingly polarized debate over property rights is making it harder and harder to enact even the most conscientious programs to protect farmland and the environment. Consensus is difficult, if not impossible, when public officials are asked to take sides on behalf of or in opposition to landowners and are told they must choose between regulation and compensation, between activity in the best near-term interest of the landowner and the long-term interest of the community at large.

Often, this debate seems ill-informed. And the less informed it is by fact, the more ideology and prejudice will prevail. This survey of private agricultural landowners throughout the United States is AFT's attempt to contribute to a less acrimonious debate. Hopefully, it will mark the beginning of the end of the polarization over property rights that threatens America's environment and debases our Constitutional freedoms — including the right to own and responsibly use private property.

**Sharing the Responsibility:
What Agricultural Landowners Think About Property Rights,
Government Regulation and the Environment**

Results of a Nationwide Survey by American Farmland Trust

Executive Summary

American Farmland Trust conducted a scientific, academic survey of 1,729 farm, ranch and forest land owners throughout the United States from June to November 1997, in which respondents were asked their opinions about government environmental regulation and private property rights. The objective was to determine how those most affected by regulations feel about the extent to which they should share the cost and responsibility of environmental protection with the general public. The margin of error in the responses is plus or minus 3.3 percent at the national level. Generally, landowners showed a strong sense of responsibility toward stewardship of the natural resources under their control—acknowledging that both regulation and cost-sharing are important tools in achieving goals that benefit all of society. The most significant findings include:

Almost three-quarters of landowners report that they have not suffered any loss of property value due to zoning, erosion control, wetlands, endangered species or other environmental or land use regulations, although eight percent reported a large loss.

Many landowners said they preferred regulation to voluntary incentives to address many environmental challenges, particularly if accompanied by cost-sharing. A majority favor regulations for protecting farmland and curbing runoff of livestock manure and topsoil from logging. They are split almost down the middle on wetlands regulations. But three out of four favor incentives over regulation to protect endangered species.

Landowners believe that traditional values like “fair warning” and the “work ethic” should strongly influence whether they deserve compensation for any loss of property value due to regulation. Most say compensation should not be limited only to those landowners on whom the burden of regulation falls the hardest.

Landowners recognize that government actions can increase, as well as decrease property values and are willing to consider the total impact in determining how much compensation may be due for regulatory losses.

Two out of three landowners reject legislation that would make the loss of a specific percentage of property value due to regulation a “taking” requiring compensation. They prefer that other circumstances also be taken into consideration.

Two out of three landowners say that the cost, and by implication the responsibility, of protecting the environment should be shared with the general public.

To achieve this goal, AFT recommends: 1) environmental and land use policies offering a fair, effective combination of regulations and incentives, including a dramatic increase in conservation funding and elimination of counterproductive subsidies; and 2) a policy audit to identify and eliminate policies and programs that work at cross purposes to good land stewardship.

Sharing the Responsibility: What Agricultural Landowners Think About Property Rights, Government Regulation and the Environment

*Results of a Nationwide Survey by American Farmland Trust
Summary and Analysis*

by Edward Thompson, Jr.
Senior Vice President for Public Policy

Introduction

Ending the Polarization Over Property Rights

Since the beginning of the modern environmental movement, private property rights has been a contentious issue. Attempts by government to regulate what people do on their land — to clean up pollution, protect wildlife and scenery, and safeguard neighborhoods—have met resistance as individual freedom and economic opportunity have been compromised. Environmental progress has spawned a backlash among property rights advocates who argue that landowners are being forced to bear an unfair, indeed unconstitutional, share of the burden. The environmentalists' response has generally been to point to the cost that landowners are imposing on the public, either in dollars or lost opportunities to enjoy clean water and air, and beautiful landscapes.

The debate continues to rage in Congress, statehouses and courthouses throughout America. It has become ideological, cultural and often bitterly partisan. No piece of environmental legislation and no local land use ordinance are immune from this polarization. Sadly, it threatens not only the quality of our lives, but also the democratic process itself. As William K. Reilly, AFT's Chairman and former EPA Administrator under President Bush, says, "The tendency to resort to abstract theories and polarizing arguments has led to a paralysis of policy in some cases and to a desecration of the landscape in others."¹

"The tendency to resort to abstract theories and polarizing arguments has led to a paralysis of policy in some cases and to a desecration of the landscape in others."

— William K. Reilly

Often caught in the middle of this acrimony are landowners themselves — those who earn their living from the land and upon whose good faith stewardship America's environmental quality ultimately depends.

Anecdotes and antipathy abound, but there has been precious little systematic analysis of landowners' beliefs about property rights, government and the environment.

Many claim to speak for them and many others think they understand their motives, for good or ill. Anecdotes and antipathy abound, but there has been precious little systematic analysis of landowners' beliefs about property rights, government and the environment to inform reasoned debate.

American Farmland Trust sought to fill this vacuum by conducting an academically rigorous, nationwide survey of agricultural landowners. We tried to be as fair as possible and honestly did not know what we would find. But we were convinced that the findings could make an important contribution to environmental policymaking because a systematic, unbiased inquiry could offer a broader, more accurate perspective than the dueling anecdotes about who's-doing-what-to-whom that characterize so much of the property rights debate today.

*The Bottom Line Issue:
How Do We Share the Cost of Environmental Protection?*

Though much of the rhetoric surrounding private property and the environment is preoccupied with "rights" and "freedom," the practical issue being contested is how we as members of society share the cost of protecting the environment. When government regulates land use to protect natural resources and community values, affected landowners often bear the expense in lower property values that reflect a decline in its potential economic return. When landowners are compensated for such lost opportunities, or are given financial incentives to voluntarily forego them, the cost is spread out among all taxpayers. Thus, decisions about whether to regulate, compensate, provide incentives or do nothing reduce themselves to a matter of allocating the costs of achieving environmental goals. Our survey focuses on what landowners think about how these costs are and should be shared with the public through conscious policy choices.

Decisions about whether to regulate, compensate, provide incentives or do nothing allocate the costs of achieving environmental goals between landowners and the general public.

The cost-sharing issue is complicated, however, by other factors. One, certainly, is what economists call "externalities" or costs that do not directly show up in the marketplace, but are nonetheless real and difficult for compensation to remedy. An example is the cost to commercial fishermen when runoff from poorly managed forest clearcuts pollutes rivers and reduces fish populations. How do we compensate for that? In deciding how the burden of environmental protection should be shared, externalities certainly should be taken into consideration. But our survey does not address this issue.

Another consideration is the effect government has on private property values when it subsidizes uses of land that otherwise would not be eco-

nomically feasible.² An example would be the construction at taxpayer expense of a highway into the countryside, making it far more profitable to develop farmland. If farmland is then zoned to limit housing development, would truly “just” compensation – being fair to the landowner and taxpayers alike – reflect the original or inflated value of the land? Because very little research has looked into the relationship between “givings” and “takings,” our survey explored landowner opinions about it.

There is, of course, an ethical dimension to all this. As a matter of principle, who should pay depends on who has the moral responsibility for the “upkeep” of the planet. It is difficult, if not impossible, to sort the ethical from economic motives when soliciting the opinions of landowners or anyone else. But it is our assumption that opinions about ethics closely parallel those about allocating costs. Therefore, while our survey concentrates on landowner opinions about how the costs of protecting the environment are and should be shared, we think it also reveals much about their beliefs about the sharing of responsibility for environmental stewardship.

How We Did the Survey

The principal researcher who conducted our survey was Dr. J. Dixon Esseks, professor of public administration at Northern Illinois University (NIU). Dr. Esseks is an associate of the Center for Agriculture in the Environment, AFT’s academic research division. During his career, he has specialized in surveying farmers’ opinions about agricultural policy issues and his work has made significant contributions to the last several federal “farm bills.”³

The survey questionnaire was designed by Dr. Esseks in collaboration with a number of his NIU colleagues, AFT staff and other property rights and land use policy experts who reviewed and commented on several of the ten drafts that led to the final product.⁴ To assure objectivity and a high response rate, the questionnaire was also pre-tested several times with a small sample of landowners.

The questionnaire posed two kinds of questions: those inquiring about the characteristics of participating landowners and those seeking their opinions about private property rights and the role of government in environmental protection. Because these issues tend to be rather abstract, we were confronted with the challenge of relating them to the real life experience of landowners. Our solution was to avoid general questions and present landowners with specific situations often faced by those who own agricultural land. They were then offered choices

that would reveal their attitudes, not only about the specific factual situations presented, but also about broader policy issues raised by the particular facts.

We assumed, for example, that a question asking whether landowners favored regulation or voluntary incentives as the better approach to protecting wetlands would also reveal something about their opinions on whether private property owners or the public at large should bear the cost of protecting this resource. Throughout this report, we drew such inferences from the answers to specific questions, trying carefully not to overreach or misrepresent landowners' opinions.

Dr. Esseks and his colleagues drew a national sample of landowners designed to be representative of those owning agricultural land in the United States. Twenty owners of at least 20 acres of farm, ranch and forest land were randomly selected from ownership records such as tax rolls and plat books in each of 30 randomly identified counties in six different regions of the country. Difficulty in obtaining addresses and telephone numbers reduced the sample in some regions. Regional results were weighted to correct for this.⁵ And some of those sampled had sold part of their property, moved or died.

Table 1
Profile of Agricultural Landowners Participating in Survey

Use of Land	%	Size of Property	%
Crops	78.1	Less than 25 acres	16.8
Livestock	58.0	25 to 250 acres	38.7
Forest Products	23.4	More than 250 acres	43.2
Annual Gross Farm Income		Occupation and Residence	
Less than \$10,000	31.3	Current Farm Operator	66.9
\$10,000 to \$50,000	27.6	Former Farm Operator	16.6
More than \$50,000	33.5	Living on the Farm	80.9

All figures are percentage of national sample.

The final survey sample includes 1,729 owners of at least 5 acres of agricultural land from 162 counties in 42 states.

Telephone calls to landowners were made from June through November 1997 by the Public Opinion Laboratory of the NIU Social Science Research Institute. Each interview, consisting of 51 questions, lasted approximately 21 minutes. The ultimate response rate — interviews completed versus total sample — varied from 51 to 71 percent in the six regions of the country. At the national level, the survey was designed to achieve a margin of error of plus or minus 3.3 percentage points. The final sample includes 1,729 owners of at least 5 acres of agricultural land from 162 counties in 42 states. (See U.S. map and list of counties in the Appendix.) The results were tabulated by computer and are presented in Dr. Esseks' technical paper, which is summarized in this report.⁶

Survey Results

Our survey examined several important issues related to how landowners and the public share the cost of protecting natural resources: What is the current impact on private property values of regulations designed to achieve public environmental and land use objectives? What factors do landowners believe should be considered in determining whether the public should pay them compensation for losses of property value due to regulations? What approach—regulations, compensation or the free market—is preferred by landowners as the best way to protect specific kinds of resources?

The Impact of Current Regulations on Property Values

The first thing we wanted to learn from America's agricultural landowners was how environmental regulations are affecting their property values. This reflects how landowners and the public are currently sharing the cost of protecting natural resources. If regulations are having an extensive negative impact on property values, landowners may be bearing a disproportionately large share of the cost. If, on the other hand, the impact is less widespread, it probably means that the public is sharing more of the cost.

To shed light on this issue, we asked landowners (questions 17-26 in Appendix) whether their property had experienced a small, moderate or large⁷ reduction in value because of four common types of regulation - wetlands, erosion control, endangered species and zoning -- as well as a catch-all "other" category. To assure that we would not miss any impacts, we did not specify any particular law or which level of government was imposing the regulation. Our findings represent landowner *opinions*, not empirical fact, but our assumption is that such perceptions carry importance in the policymaking process.

Findings and Observations

A large majority of landowners (71.4%) reports that they have not suffered any loss of property value from the most common types of environmental and land use regulations. (Table 2) But almost 29 percent, a fairly significant minority, did report some loss of value from at least one of these types of regulation. Only 8.3 percent of those we sampled reported a "large" loss of property value from any type of regulation.

Our findings represent landowner *opinions*, not empirical fact, but our assumption is that such perceptions carry importance in the policymaking process.

Almost three-quarters of agricultural landowners report that they have not suffered any loss of property value due to some of the most common types of environmental and land use regulations.

Table 2
Percentage of landowners reporting losses of property value due to specific types of regulation

Type of regulation:	None	Small	Size of loss:			Any*
			Moderate	Large		
Wetlands	88.1	3.3	5.1	3.5	11.9	
Erosion Control	87.8	5.3	5.3	1.7	12.2	
Endangered Species	97.2	0.8	1.1	0.8	2.8	
Zoning	90.3	2.2	3.6	3.9	9.7	
Other Regulations	92.7	1.8	3.0	2.5	7.3	
All Regulations	71.4	9.0	11.3	8.3	28.6	

* "Any" is the total of small, moderate and large.

Reports of property value reductions were higher among some groups of landowners, particularly larger farmers. Among the 23.7 percent of our sample who earn at least \$100 thousand annually from agriculture, 39.4 percent reported regulatory losses. Landowners receiving government payments under a USDA production flexibility contract or for participation in the Conservation Reserve Program were about twice as likely as other landowners to report a reduction in property value due to erosion control regulations imposed as a condition of participation in these programs.⁸ In the West, there was a difference. A significantly higher percentage of landowners reported losses (46.8%) than in the other regions. However, the impact of zoning, rather than environmental regulation, accounts for much of the difference. (Table 3)

Wetlands and erosion control regulations affect the most agricultural landowners nationwide, but the impact of endangered species regulations on property values appears to be surprisingly small.

The types of regulations having the greatest impact nationwide appear to be wetlands and erosion control, both affecting about one in eight agricultural landowners. In the Northeast and West, zoning had the biggest impact, perhaps because property values in these regions are more inflated by demand for residential development, which zoning sometimes restricts. (As reported below, zoning to protect agriculture from conflicts with non-farm residences enjoys broad support among agricultural landowners.)

The nationwide impact of endangered species regulations, as reported by the landowners we surveyed, is surprisingly low considering how much attention this issue has attracted. But it is four times as great in the West, where 13.1 percent of landowners reported some loss, than in the country as a whole. Of these, however, less than a third — 3.8 percent of all Westerners sampled — said the loss was “large.” Several possible explanations suggest themselves: The publicity surrounding the Endangered Species Act (ESA) may overstate its actual impact. Enforcement of ESA regulations may be flexible or relaxed. Or, as reported elsewhere, landowners may be taking steps to cut their regulatory losses, by eliminating potential habitat before endangered species are discovered on their land.⁹

Table 3
Regional Differences in the Impact of Regulation

	Percentage of landowners reporting loss:			Type with Largest*	PCT Large**
	None	Any	Large		
Northeast	66.9	33.1	10.2	Zoning	4.4
Southeast	75.9	24.1	7.9	Wetlands	4.8
Midwest	72.9	27.1	6.3	Wetlands	3.3
Northern Plains	69.0	31.0	5.9	Erosion	3.4
Southern Plains	78.5	21.5	5.7	Wetlands	3.3
West	53.2	46.8	21.0	Zoning	15.3
U.S.	71.4	28.6	8.3	Wetlands	3.5

* Type of regulation with most landowners reporting a large loss of property value.

** Percentage of landowners reporting large loss from this type of regulation.

Regulations, Voluntary Incentives and Free Market Approaches to Conservation

There are three basic approaches government can use to conserve natural resources on private land: adopt mandatory regulations, offer financial incentives to compensate volunteers or do nothing and let the market (and courts) determine the outcome. In only a few circumstances does the market alone achieve conservation goals. An example is when landowners save money as well as topsoil by adopting no-till farming practices. Thus, most conservation programs involve regulations, incentives or a combination of the two.

As discussed above, regulations tend to impose the cost of environmental protection on regulated landowners, while financial incentives spread it among the general public. Thus, conventional wisdom would suggest that regulations are less popular among landowners than voluntary incentives. However, just as our survey found that regulations are not imposing a high cost on most landowners, it also seems to indicate that many landowners are not opposed to regulations, particularly if accompanied by compensatory incentives. There were, however, significant differences in opinion depending on the specific resource conservation challenge and characteristics of landowners relating to what they have to lose from environmental regulation.

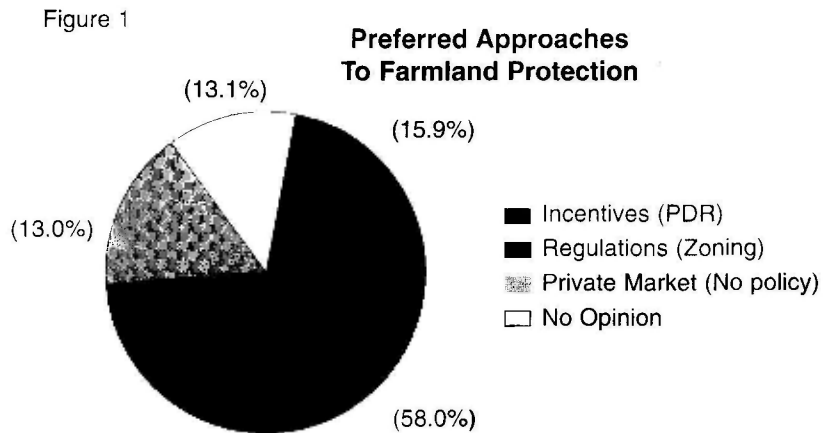
Findings and Observations

We asked rural landowners (questions 12-16) which approach they preferred to address five high-profile environmental and land use challenges. The results are reported in Table 3.

There is more landowner support for environmental and land use regulations than conventional wisdom would suggest. But it depends on the specific resource conservation challenge and what landowners have to lose from environmental regulation. Where regulations are less acceptable, financial incentives are preferred over the free market.

Protecting Farms from Conflicts with Development

Our survey of agricultural landowners shows that a fairly large majority (58.0%) opted for regulations rather than voluntary incentives to protect farms from conflicts with residential development.¹⁰ This result did not vary significantly with the size of a landowner's operation; only two percent more of those grossing \$100,000 per year from farming favored



incentives over regulations. Support for regulations was slightly higher (59.6%) among those who said their land was subject to zoning, but understandably lower (47.2%) among those who reported that their property had lost value due to this kind of regulation. One possible explanation for the broad endorsement of this kind of regulation is that landowners understand that zoning can directly benefit their interest in continuing to farm. Another may be that they recognize that, unless their neighbors take advantage of the incentives offered, voluntary approaches like conservation easements will not necessarily protect their farming operations from conflicts with development on adjacent land. Allowing the market to determine the outcome received relatively little support on this and most other resource conservation conflicts.

Reducing Nonpoint Source Water Pollution from Livestock and Logging Operations

A sizable majority of rural landowners also preferred regulations — requiring mandatory management practices — to prevent water pollution from the runoff of livestock manure (58.6%) and erosion from logging operations (55.2%). Support for regulations remained high for mandatory practices for these respective land uses even among those who are more at risk of regulatory losses because they use land to produce livestock (53.8%) and timber (54.1%). Virtually the same percentage of large (\$100,000 annual gross) and smaller landowners sup-

ported livestock regulations, but 11 percent more large operators favored voluntary incentives for curbing runoff from logging.

The idea of combining incentives and regulation —“carrots” and “sticks” — as a method of fairly distributing the cost of environmental protection between landowners and the general public met with significant approval.

Table 4
Landowner Preferences for Alternative Conservation Approaches

Environmental Conservation Issue:	Voluntary Incentives	Mandatory Regulation	Private Market*
Protecting farms from development	15.9	58.0	13.0
Preventing water pollution from livestock manure	28.3	58.6**	4.5
Preventing water pollution from logging runoff	31.7	55.2**	5.1
Preventing flooding by protecting wetlands	45.0	39.8	5.3
Protecting endangered species by limiting farming	44.9	15.8	30.1#

* Allow people to work it out in the market and courts.
 ** Regulation accompanied by eligibility for cost-sharing payments
 # Private approach includes payment for conservation easements by land trusts.

In contrast with the farm protection example, the questions we asked about livestock and logging suggested that landowners would be eligible for cost-sharing incentive payments to help offset the cost of regulatory compliance. This was a deliberate attempt to test the idea of combining incentives and regulation as a method of fairly distributing the cost of environmental protection between landowners and the general public. Obviously, it met with significant landowner approval, even among those most at risk of loss from these specific types of regulation.

Protecting Wetlands and Endangered Species

Landowners were about evenly split between regulations (39.8%) and voluntary incentives (45.0%) as the preferred method of protecting wetlands and, thus, prevent downstream flooding.¹¹ The results were much different, however, among the one in eight landowners who reported losses of property value due to wetlands regulation. Less than a third (30.2%) of this group favored regulations, while 61.0 percent favored voluntary incentives.

Landowners were about evenly split between regulations and voluntary incentives as the preferred method of protecting wetlands. But more than four times as many landowners favored public or private incentive payments over regulations to safeguard endangered species.

Size of operation also made a significant difference: 31.8 percent of those grossing more than \$100,000 annually favored wetlands regulations, while 48.8 percent of smaller operators favored regulation.

Despite the fact that fewer agricultural landowners reported a loss of property value from endangered species regulation than any other type, more than four times as many landowners favored public or private incentive payments (75.0%) over regulations (15.8%) to protect endangered species on agricultural land.¹² Support for this kind of regulation was even lower among landowners grossing more than \$100,000 annually, 9.8 percent compared to 20.4 percent among other landowners.

The overwhelming majority of rural landowners preferred doing something — mandatory or voluntary — to address the environmental challenges they face.

Traditional values like “fair warning” and the “work ethic” — trying harder to comply — are widely endorsed by landowners as principles on which to decide who deserves compensation when regulations reduce property values.

Obviously, there is some risk other than loss of property value posed by the Endangered Species Act to which landowners are responding. Perhaps it is the fear that more vigorous enforcement of ESA regulations might suddenly cripple their agricultural operations. Whether or not this fear is well-founded, our survey seems to confirm that the ESA is the source of considerable anxiety among agricultural landowners and that they feel that current policies place too much burden on them. However, it does not appear that government involvement with endangered species *per se* is a universal cause of landowner concern. Our survey found that somewhat more landowners actually prefer government incentive payments (44.9%) to private payments (30.1%) for achieving this conservation goal.

In general, an overwhelming majority of rural landowners preferred doing something — mandatory or voluntary — to address the environmental challenges they face. There was only minimal support for allowing things to be worked out through the market and courts. This seems to indicate broad landowner acceptance of the need to protect the environment as well as for fair, effective public policies to achieve it.

Factors to Consider in Determining Eligibility for Compensation

We have seen that a significant percentage of rural landowners approves of regulations to address the environmental challenges we asked about, especially if accompanied by financial incentives that could help compensate for the cost that regulations may impose on them. This raises the issue of what criteria should be used to determine which landowners are most deserving of compensation, whether offered as an incentive or as recompense for loss of property value.

This has also been a key issue in the public debate over “takings.” As interpreted by the courts, the 5th Amendment to the U.S. Constitution requires such compensation only when a regulation “takes” all or nearly all of the value of the land by severely limiting its economic use. Even then, a regulation can be justified if such use of the land would pose a serious enough public menace.¹³ Implicit in this interpretation is a balancing of factors such as the economic burden suffered by the private landowner and the potential harm to public health, safety or welfare if a regulation is not enforced.

Advocacy organizations representing landowners disagree with this interpretation of the law, arguing that it shifts the balance too far in the direction of the public, thus forcing landowners to bear a disproportionate share of the cost of protecting the environment. They have urged Congress and state legislatures to adopt laws that would liberal-

ize the rule, by awarding compensation to landowners who can demonstrate that their property value has been reduced by a fixed percentage, regardless of other circumstances.

Findings and Observations

Our survey asked rural landowners (questions 1-6) about a series of factors that could be considered when determining whether they should be eligible for compensation when regulations reduce property values. In effect, we were asking when the public should bear more of the cost of environmental protection. Some questions related to traditional values, others to public and private burdens.

Table 5
Factors to Consider In Determining Who Should Receive Compensation

	Yes	No
Deny where prior knowledge of rule before land purchase	75.0	14.8
Increase for those who try harder to comply	63.5	25.2
Limit to severely burdened landowners	30.7	60.3
Deny where risk to public health or safety	23.1	61.9
Consider percentage loss of property value only	21.6	67.8

All figures are percentage of national sample.

Traditional Values

A large majority of those surveyed agreed that prior knowledge of a regulation and the effort made by landowners to comply with it should weigh heavily on whether compensation is due. Three quarters of them would deny any compensation to a landowner who knew about a regulation when he or she acquired land subject to the regulation. Whether the opposite it also true — Would they expect compensation when the rules change or new regulations are adopted? — is an open question. Almost two-thirds (63.5%) agreed that landowners who try harder to comply with a regulation should be treated better from a compensation standpoint than those who do not make as much effort. Thus, traditional values like receiving “fair warning” and the “work ethic” seem to count heavily on landowners’ opinions on how much of the responsibility for environmental protection they are willing to bear.

The “fair warning” principle seems to have several policy implications. On one hand, it suggests that landowner complaints that existing environmental laws are unfair may diminish as the land changes hands. On the other, it seems to imply that to win landowner approval, new environmental regulations may have to be accompanied by some effort to compensate for the limits they place on land use, particularly where the benefits of regulation accrue more to the general public than to landowners.

Taking this a step farther, the “work ethic” principle would suggest that such compensation should somehow be linked to the amount of effort landowners make to comply with regulations. However, current conservation policies do not necessarily embody this principle. Consider wetlands, for example. Before it was discouraged by section 404 of the Clean Water Act and the “swampbuster” provisions of the 1985 Farm Bill, it was routine for farmers to drain wetlands for crop production. Those who did are now eligible to be compensated for restoring wetlands under the Wetlands Reserve Program. Those who did not — at least some of whom made a deliberate choice and, arguably, greater effort — are still subject to regulations, but without the prospect of compensation.

Balancing Private Burden and Public Harm

We also asked landowners (question 4) about the public harm avoided and the private burden imposed on private property by environmental regulation, as factors in determining the appropriateness of compensation. These, of course, are the two basic considerations that legislators and courts tend to balance in enacting and reviewing environmental laws.

Most agricultural landowners believe compensation should not be limited to those most severely burdened by regulation — even if there is not enough money to go around.

Only 30.7 percent of the agricultural landowners we surveyed would limit compensation to those who are severely burdened by regulation, while the majority (60.3%) believes that any landowner who suffers an economic loss should be eligible even when funds for this purpose are limited. (Table 5) This contrasts sharply with the current “total taking” rule applied by most courts, in which only those who suffer a virtual wipeout of their property value are legally entitled to compensation. Interestingly, those landowners who reported a loss of property value from environmental regulation — who might be expected to consider themselves the most burdened — were the *least* supportive of the idea of limiting compensation to the severely burdened. Could the extensive publicity surrounding regulatory “takings” have convinced them that their loss is comparatively small or more common than the findings of this survey suggest?

An even smaller percentage (23.1%) of the landowners we surveyed seems to believe that harm to public health or safety should be grounds for denying compensation. An additional 13.6 percent said public harm might be grounds for reducing compensation. The specific question to which they were responding used the example of a regulation requiring the planting of grass filter strips on farmland along a river, thus removing it from crop production, in order to prevent chemical runoff from polluting a downstream public water supply. In choosing the subject of this question, we tried to choose a risk to public health and safety

that seemed quite clear. But maybe it was not. One possible explanation for the results is that landowners are simply not convinced that farm chemicals pose a public health risk and, thus, discounted this risk in answering the question. Another explanation, however, may be that many landowners do not believe they can afford to take the steps necessary to prevent nonpoint source runoff — that the burden they are being asked to bear is too great. This would be consistent with our earlier finding that most landowners *do* support regulations for livestock manure runoff *if* they are accompanied by compensatory incentives. Perhaps the response to this specific question cannot be generalized to all environmental regulations, but it nevertheless seems to suggest that even where the public health is at risk — perhaps especially where it is at risk — landowners do, indeed, expect everyone to help share the cost of protecting water quality.

Offsetting “Givings” and “Takings”

As already noted, government actions can increase as well as decrease private property values — it “gives” as well as “takes.” The same government actions can encourage land uses that are environmentally damaging and, thus, impose “external” costs on the public.¹⁴ This complicates the issue of “just” compensation for regulatory losses and the broader issue of how landowners and the rest of society share the cost of environmental protection. It raises the question whether, in fairness, any compensation for regulatory “takings” should be offset by a portion of the land value attributable to government payments.¹⁵ Otherwise, isn’t the public paying *double* to achieve environmental goals; once when government action increases private property value and again when it is called upon to compensate the landowner for that same portion of the value?

To some, this is a new and controversial idea. So, to test landowners’ reaction to it, we asked them (questions 9-11) whether they should be fully compensated for the value of property contributed by government programs, or whether compensation should be appropriately reduced in the interest of fairly sharing the cost of environmental protection. We posed three hypothetical situations, each involving an increase in property value attributed to a specific government action, followed by a decrease in value due to a specific type of regulation. Landowners were then asked if they favored full compensation, with no offset of government benefits; partial compensation, with such an offset; or no compensation at all. The results are reported in Table 6, in which the first column describes the government policy or action that was said to increase property value and the second column describes the regulation that reduced it.

Even where the public health is at risk — perhaps especially where it is at risk — landowners expect everyone to help share the cost of protecting water quality.

Government actions can increase as well as decrease private property values, complicating the issue of how landowners and the rest of society share the cost of environmental protection.

Table 6
Compensation to Balance "Givings" and "Takings"

Policy and its impact on land value:		Percentage of landowners favoring compensation:		
		Full	Partial	None
Increases ("Givings")	Decreases ("Takings")			
Paving road next to farm	Zoning to limit houses on farm	16.5	39.0	35.9
Production flexibility payments	Erosion controls	16.5	46.2	16.1
Bargain irrigation water	Pesticide regulations	15.5	62.5	13.9

Most agricultural landowners clearly recognize that government gives as well as takes, and that the issue of fair compensation should be decided by considering both sides of the equation.

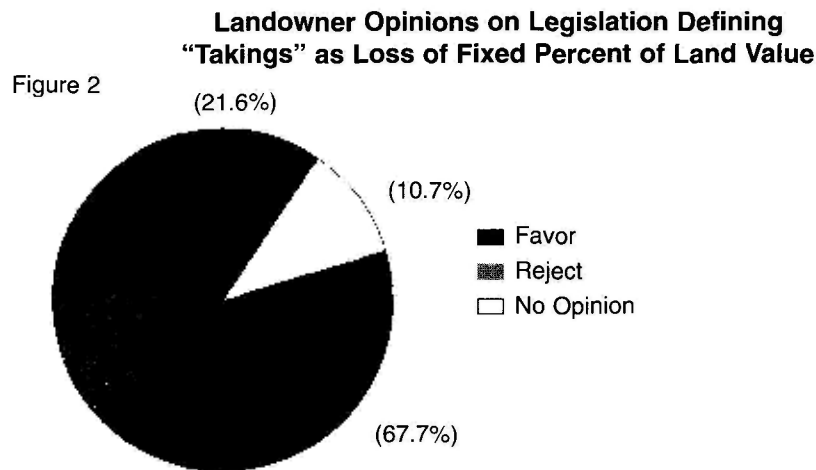
In each case, substantially more landowners favored reducing compensation when their property value has been increased by government actions. With the exception of zoning, more favored full compensation than not compensating landowners at all for the reduction in property value due to the regulation. In general, current farm operators with larger properties and more annual income, as well as landowners who said their property had been reduced in value by regulations, were more likely to favor full compensation by about five to ten percentage points. Overall, the findings strongly suggest that most agricultural landowners clearly recognize that government gives as well as takes and that the issue of fair compensation should be decided by considering both sides of the equation.

Automatic Compensation for a Specified Percentage Devaluation of Property

As the foregoing survey results suggest, the issue of compensating for environmental regulations is very complicated. Some policymakers, apparently believing this complexity is too uncertain—and, thus, unfair to landowners and confusing to regulators—have tried to simplify the issue by creating a single, bright line standard for “takings.” One approach has been to stipulate that the loss of a specified percentage of property value due to environmental regulation is automatically a “taking,” which requires the compensation of landowners. Four states have adopted some variation of such legislation. Many more, as well as both houses of Congress, have considered it.

Because it seemed to be such a timely and universal issue, we asked landowners (question 7) whether they support such legislation, or instead, favor the alternative of considering individual facts and circumstances, the approach taken by the courts. The specific question we asked used 20 percent of market value as an example of the “trigger” for compensation. Only 21.6 percent of the landowners surveyed favored such legislation, while more than three times as many (67.8%) rejected it in favor of determining eligibility for compensation based on factors such as those discussed above. The results were comparable regardless of landowners’ circumstances: farm income, status as a farm

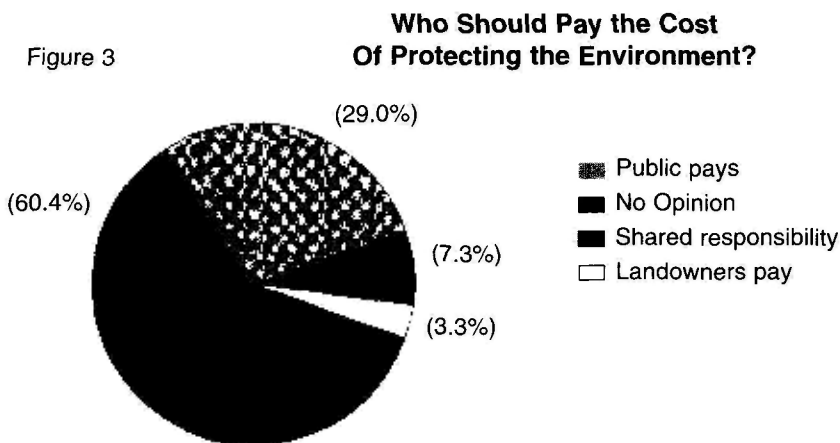
operator occupation, regulatory loss of property value, or region of the country. Beyond the clear message that agricultural landowners are not enthusiastic about such legislation, the implication of these results seems to be that, despite the complexity of the issue, most landowners do not believe a simple “fix” is the key to fairness when it comes to sharing the cost of protecting the environment with the public.



Sharing the Burden

The premise that underlies all of the questions we asked agricultural landowners about specific situations is that their opinions about regulation and compensation reflect their views on the broader issue of how we as a society should share the cost and responsibility of protecting the environment. When we tested this proposition by asking directly (question 8) who should bear the economic burden protecting the environment, the answer corroborated the other results of our survey. By a two-to-one margin, landowners favored sharing the burden with the public to having the public bear the entire cost.

Three out of four landowners reject legislation specifying that the loss of a fixed percentage of property value due to regulation is a “taking.”



Conclusions and Recommendations

Agricultural landowners do not fit the stereotypes often ascribed to them.

What insights into environmental and land use policymaking can be gleaned from the results of our survey? What principles for environmental regulation and compensation emerge from landowners' opinions?

Agricultural landowners are willing to share the cost of protecting the environment with the public — but they do not want to bear the burden alone.

- First, it is clear that agricultural landowners do not fit the stereotypes often ascribed to them. Most are neither poor, unfortunate victims of environmental regulation run amok; nor are they greedy libertarians who don't care if they plunder the planet. In short, they are not what extremists on both sides of the property rights debate make them out to be. Relatively few agricultural landowners report that they have suffered a loss of property value because of environmental regulation. Fewer still say the impact has been large. And most reject the idea of leaving environmental protection solely to the marketplace and courts. They do not want to roll back environmental laws, as some apparently seek to do under the pretext of providing just compensation for property rights.

Funding for incentive programs to balance environmental regulation needs to be increased dramatically. And counter-productive subsidies must be eliminated.

- What landowners do seem to want is to address environmental challenges through a fair, effective mix of adequate incentives and conscientious regulation. Most are willing to accept regulation, especially if accompanied by a good faith attempt to help them meet the cost of compliance. This willingness on the part of landowners also suggests that regulation can and should be applied in a more cooperative, less confrontational way.

- Landowners want the public contribution to environmental protection — whether it is called “compensation” or “incentives” — to be distributed broadly among affected landowners, rather than being concentrated on a few targets. (Presumably, the courts will continue to take care of those cases.) They also recognize that government programs benefit them by increasing their property values and, in light of this, do not insist on being compensated for every dollar they forego because of restrictions on the use of their land.

- In some cases, landowners seem to be willing to accept regulation without any financial remuneration, believing that the benefit to their livelihood or security is compensation enough. Zoning, to protect farmland from development and farmers from conflicts with neighbors, is a good example. When accompanied by the purchase of conservation easements from willing landowners, it makes an unbeatable combination.

- In short, agricultural landowners are willing to share the cost of protecting the environment with the public — but they do not want to bear the burden alone. This almost certainly entails that funding for incentive programs to balance environmental regulation needs to be dramatically increased at every level of government. At the federal level, prime candidates are the Land and Water Conservation Fund and a host of “farm bill” programs: the Farmland Protection Program, Conservation Reserve Program (and its Enhancement component), Wetlands Reserve Program and Environmental Quality Incentives Program. Indeed, when production flexibility payments are phased out after 2002, reprogramming funds to help share the cost of stewardship with agricultural landowners may be the best way to keep this funding in the agricultural sector.

- If the public treasury is to afford an increase in compensatory incentives for landowners, it will place a premium on eliminating counterproductive subsidies. These artificially drive up land prices, making compensation more expensive to the public and, arguably, represent a windfall to landowners. A policy “audit” is needed to identify how policies work at cross purposes with others. There are several policy mechanisms that could shed further light on this. One is the Farmland Protection Policy Act of 1981, whose stated purpose is “to minimize the extent to which the federal government contributes to the conversion of farmland to nonagricultural use” through agency program review. Another is the regulatory review statutes passed by a number of states. Though now aimed at identifying potential regulatory “takings,” they could and should be amended to consider the “givings” side of the equation.

- Ultimately, to solve the nation’s pressing environmental problems and moderate the intensifying competition for land, we as a society urgently need a policy of *accommodation*: one that rejects regulation without even considering compensation, as well as compensation without a genuine commitment to environmental due diligence. Indeed, a policy that transcends polarization and confrontation, and in good faith attempts to reflect the principle of fairly shared responsibility. America’s agricultural landowners seem ready to take this critical step. Are the nation’s policymakers?

We urgently need a policy of accommodation that reflects the principle of sharing the responsibility for environmental protection.

America’s agricultural landowners seem ready to take this critical step.

Endnotes

1. W. Reilly, *Across the Barricades* in Land Use In America, P. Noonan and H. Diamond, eds., Island Press (1997), p. 190.
2. See, E. Thompson, *The Government Giveth*, Environmental Forum (March-April 1994), p. 22.
3. See, e.g., J. Esseks, *Producers and the 1995 Farm Bill*, American Farmland Trust Center for Agriculture in the Environment (May 1995); J. Esseks and S. Kraft, *Landowner Views of Obstacles to Wider Participation in the Conservation Reserve Program*, J. Soil & Water Conservation (Nov-Dec. 1986), p. 410.
4. Dr. Esseks' colleagues included Dr. Stephen Kraft, Department of Agribusiness Economics, Southern Illinois University; and Dr. Lettie M McSpadden, Department of Political Science, Northern Illinois University. Outside experts consulted included John Gamper, Esq., counsel for the California Farm Bureau Federation; John Echevarria, Esq., formerly with the National Audubon Society and now professor of law and director of the Environmental Policy Project at Georgetown University Law Center; Neil Hamilton, Esq., director of agricultural law and professor at Drake University Law School; and Max Schnepf, formerly with the Natural Resources Conservation Service, U.S. Department of Agriculture. Their participation does not necessarily imply endorsement of the approach or results by them or the institutions with which they are affiliated.
5. See, J. Esseks, S. Kraft and L. McSpadden, *Owners' Attitudes Towards Regulation of Agricultural Land: Technical Report on a National Survey*, American Farmland Trust Center for Agriculture in the Environment (June 1998), p. 17. Check AFT's web page — www.farmland.org — for the full text of this technical paper. All findings reported in this summary are supported by the more complete and detailed results of the survey in the technical paper. Extensive references to the technical paper have been omitted from this summary in the interest of brevity and clarity to lay readers.
6. *Id.*
7. We did not define or attempt to quantify “small,” “moderate” and “large,” assuming that landowners did not have the kind of information that would enable them to answer with precision. Instead, we assumed that their subjective judgment would be just as valuable to policymakers.
8. These programs tend to increase the value of property of participating landowners as government payments improve the economic return from the land and are, thus, capitalized into its price. For example, it has been calculated that federal payments designed to stabilize commodity prices and support farm income, now called “production flexibility” payments, contribute as much as 20 percent to the value of Midwestern cropland, depending on its location and productivity. See, C. Bernard, G. Whittaker, D. Westerbarger and M. Ahern, *Impact of Direct Government Payments on the Value of Midwestern Cropland*, USDA Economic Research Service (February 1997). Of the landowners we surveyed, 33.4 percent receive federal production flexibility payments. Forty-nine percent — significantly higher than the percentage of landowners reporting a loss of property value from environmental regulations — receive some kind of government program benefits that can increase property values.

The programs we asked about include production flexibility payments, USDA loans, Conservation Reserve Program rents and government irrigation water. The implication is that government does not just “take” private property, but can also “give” it additional value. The balance affects how landowners and the general public share the cost of environmental protection. If compensation of landowners for regulatory losses is based on property values inflated by other taxpayer-funded payments, the public is arguably paying double to achieve environmental objectives. See, E. Thompson, *The Government Giveth*, supra.

9. See, e.g., I. Sugg, *Reconciling Property Rights and Endangered Species* in Property Rights Reader, Competitive Enterprise Institute, p. 13.

10. The hypothetical question (12) we posed explained that the purpose of preventing development was to protect agriculture from land use conflicts with nearby non-farm residences. We did not test others purposes for preventing development of farmland such as protecting scenic open space, wildlife habitat, watersheds. The results may be different for these purposes, though rarely are the reasons for protecting farmland mutually exclusive.

11. The hypothetical question (14) did not test other environmental purposes for protecting wetlands such as maintaining waterfowl and other wildlife habitat, or removing water pollution. The questions on livestock, logging and endangered species addressed these purposes, so we did not want to repeat them here. Since there has been considerable controversy over small, isolated wetlands that are more important for habitat than flood prevention, one might expect landowners to be less enthusiastic about protecting these wetlands.

12. The results of this question (15) cannot be directly compared to those we asked about other environmental issues because the third choice we offered landowners was not simply to allow conflicts to be worked out by the market and courts. Rather, it suggested that landowners could be compensated by private market techniques such as conservation easements purchased by land trusts. In effect, they had two voluntary incentive options. This probably resulted in somewhat fewer landowners favoring the regulatory option. In retrospect, we acknowledge that offering the same choices may have put the issue in better perspective.

13. See, e.g., *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003 (1992).

14. See, D.M. Roodman, *Paying the Piper: Subsidies, Politics and the Environment*, Worldwatch Institute (Dec. 1996).

15. E. Thompson, *Takings and Givings: Toward Common Ground on the Property Rights Issue*, 44 J. Soil & Water Cons. (Fall 1992), p. 462.

Appendix

States and Counties From Which Landowner Sample Was Taken

(Regions correspond to those of the USDA
Natural Resources Conservation Service)

Northeast

Connecticut — Litchfield
Maryland — Anne Arundel
Massachusetts — Franklin
New Hampshire — Coos
New Jersey — Hunterdon, Monmouth
New York — Chatauqua, Chenango, Erie, Monroe, Orleans
Pennsylvania — Adams, Armstrong, Chester, Juniata, Potter,
Somerset, Susquehanna, Wyoming
West Virginia — Berkeley, Greenbrier, Hancock, Harrison, Putnam,
Taylor
Vermont — Franklin

Southeast

Florida — Clay, Holmes, Jackson
Georgia — Houston, Laurens
Kentucky — Adair, Carter, Logan, McLean, Todd
Mississippi — Walthall
North Carolina — Hyde, Lincoln, Mecklenburg
South Carolina — Orangeburg
Tennessee — Grundy, Montgomery
Virginia — Buckingham, Franklin, Highland, Rockingham,
Shenandoah, Washington

Midwest

Illinois — Adams, Edgar, Ford, Will Logan, McLean, Saline, Wayne
Indiana — Henry
Iowa — Cedar, Crawford, Guthrie, Lyon, Wapello
Michigan — Clinton, St. Joseph
Minnesota — Aitken, Houston, Morrison, Nobles, Steele
Missouri — Lewis, Pulaski, Stoddard
Ohio — Mercer, Sandusky
Wisconsin — Baron, Marinette

Northern Plains

Colorado – Delta, Logan, Otero, Routt

Kansas – Coffey, Crawford, Decatur, Dickinson, Grant, Greenwood,
Kingman, Neosho, Reno

Montana – Hill

Nebraska – Boone, Cherry, Dawson, Hamilton, Knox, Saunders,
Sheridan

North Dakota – Emmons, McHenry, Ramsey, Richland, Traill

South Dakota – Brule, Meade, Roberts

Southern Plains

Arkansas – Izard, White

Louisiana – Franklin, Jefferson Davis, St. Mary's

Oklahoma – Alfalfa, Beaver, Canadian, Jackson, Kingfisher, Lincoln,
McCurtain, Okfuskee, Ottawa, Pottawatomie

Texas – Burleson, Comanche, Ellis, Fisher, Glasscock, Hill, Jackson,
Lubbock, Milam, Robertson, Rusk, Valverde, Young

West

Arizona – Pima

California – Butte, Contra Costa, Madera, San Luis Obispo, Sonoma

Idaho – Bingham, Boundary, Gem, Payette

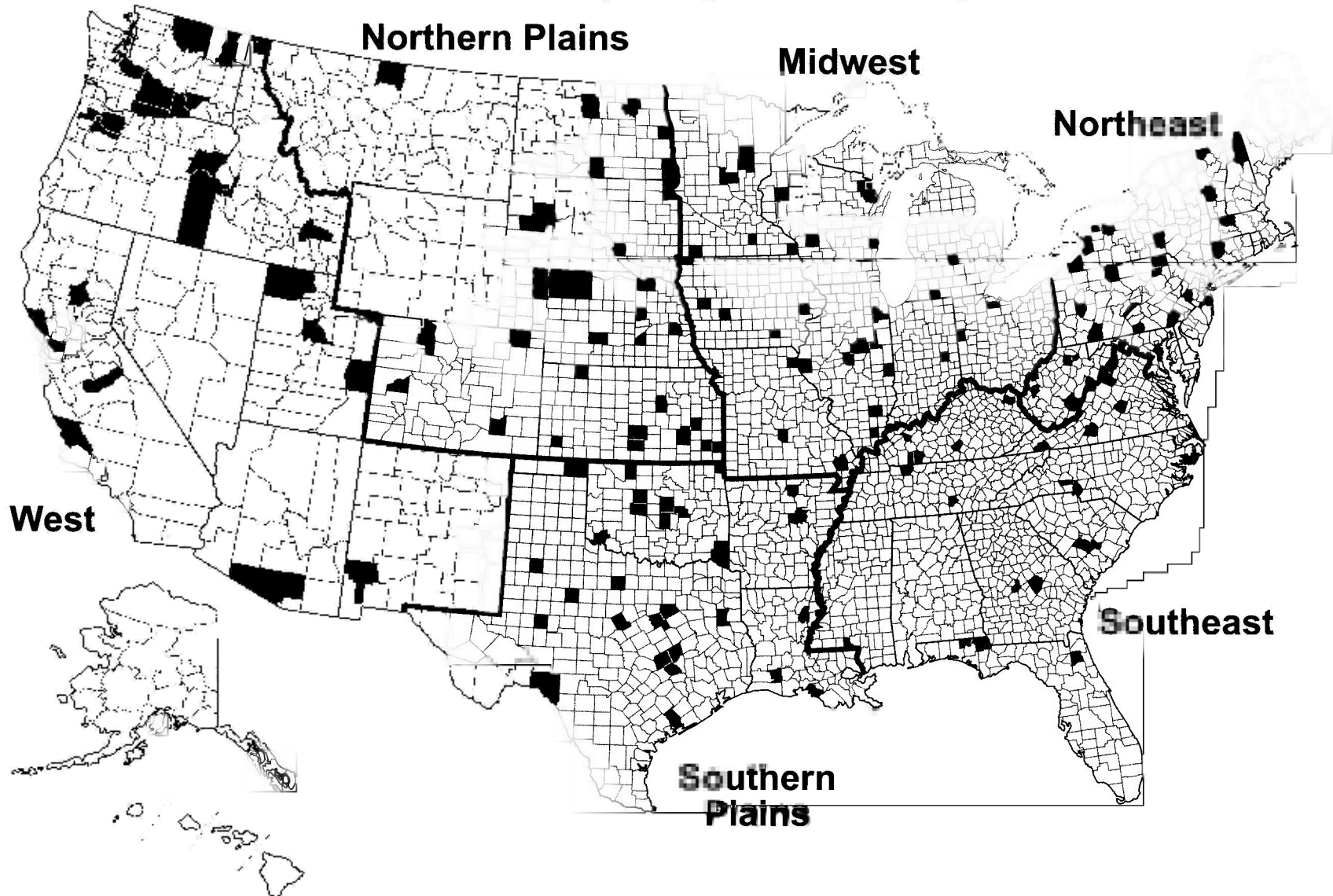
New Mexico – Grant

Utah – Box Elder, Grand, Utah

Washington – Benton, Franklin, Klickitat, Okanogon, Pierce,
Stevens, Yakima

(See U.S. map of survey counties on the following page)

Counties and Regions Sampled for AFT Property Rights Survey



Telephone Interview Questionnaire for AFT Property Rights and Responsibilities Survey

[Note: Policy questions are numbered for ease of reference.]

Hello, my name is _____. I am calling from Northern Illinois University. Dick Esseks of this university recently sent a letter asking you to be interviewed for a national survey of farmland, ranchland and forestland owners. The survey is about proposed federal and state legislation that deals with the rights of landowners, including the right to compensation for negative effects of regulations. For example, we are interested in your opinions about guidelines for compensation.

Did you receive the letter from Dick Esseks?

Good. As you will recall, the letter explained that a representative group of farmland, ranchland and forestland owners nationwide is being interviewed for this survey. The opinions of individual owners will be kept in the strictest confidence. We will report to Congress and state legislatures only group percentages, such as what percentage of all interviewed owners had this or that opinion.

The interview should take only about 20 minutes. We need your participation in this survey so that findings may be representative. May I interview you at this time?

Do you currently own, either by yourself or in partnership, at least 10 acres of farmland, ranchland or forestland? That is, do you now own 10 or more acres of land that this year is being used for raising livestock, hay, crops (including orchard crops) or timber?

My first question deals with the definition of compensation for regulations. The regulations we have in mind include those affecting disposal of livestock manure, zoning of farmland and the status of wetlands and endangered species. Is the following definition of compensation clear to you: By compensation we mean that the landowner would be paid some or all of the difference between (a) the land's appraised value with the regulation applied to it and (b) the land's appraised value without the regulation applied to it. Is this definition clear to you?

Yes
No

Let me read the definition again to see if it is any clearer. By compensation we mean that landowner would be paid some or all of the difference between (a) the land's appraised value with the regulation applied to it and (b) the land's appraised value without the regulation applied to it. Is this definition clear to you?

Yes
No

1. Since compensation must come from taxpayers and there won't be enough money to compensate everyone, we need your opinions about guidelines as to who should be compensated. Here is one possible guideline: Some people believe that money for compensation will be so limited that what's available should go only to persons who are severely burdened by the regulations, such as when a regulation takes away almost all the land's existing appraised value. Do you favor limiting compensation to the severely burdened persons? Or should compensation be open to other landowners as well? Would you prefer limiting compensation to the severely burdened or opening it to others as well?

Limits
Open

2. Here's another possible guideline for compensation. Some people believe that compensation is unnecessary when the landowner knew about the regulation before he bought the land and purchased it any way. Let's say that someone buys 40 acres with a wetland on it and knows about the regulations against draining it for farming purposes. However, he would like to be compensated for his inability to increase the land's value through draining the wetland. Should this owner be eligible for compensation?

Yes
No
Maybe

3. Should the owner's prior knowledge of the regulation cause the amount of compensation to be reduced, or should that prior knowledge make no difference?

Yes
No

4. Here's a third possible guideline for deciding compensation. Some people believe that compensation is unnecessary when the regulations are designed to prevent harm to people. Let's say that the regulation deals with protecting the purity of river water used for a city or village's water supply. To protect that supply, farmers are required to plant grass on strips of land next to the river rather than plant cash crops on the strips. The grass should catch soils and chemicals that might otherwise wash into the river. Should farmers who can't cash crop the strips be eligible for compensation?

Yes
No

If yes --

5. Should this regulation's health purpose cause the amount of compensation to be reduced, or should the health purpose make no difference in the amount of compensation?

6. A fourth possible guideline might be to base compensation decisions on the extent to which the landowner tried to comply with the regulation. Let's say the regulation deals with protecting endangered birds and one farmer tries hard not to disturb the nests of such birds, such as by leaving some of his land unfarmed. Another farmer leaves as much land unfarmed but does not follow other recommended management practices for protecting the birds, like not spraying near the nests. Should both farmers be treated equally regarding compensation, or should the farmer who tried harder be treated better?

Equally
Better

7. Proposed legislation would have compensation be automatic if a regulation has decreased the land's appraised value by a set percentage, like 20 percent or higher. For example, if the value decreased by 21 percent, the owner automatically is paid that full 21 percent in compensation. If the decrease is 19 percent, there would be no compensation at all under the proposed or present legislation. An opposing option is that compensation should depend on other considerations such as whether the owner bought the land knowing about the regulation, whether the legislation might protect humans from harm, or whether the landowner made a genuine effort to comply with the regulation. What do you think? Should compensation be automatic after a certain percentage reduction in value is reached, or should it depend on other considerations?

Automatic
Depends

8. Some people say that when it comes to protecting the environment, the public through its government should normally pay landowners for any losses on their property's value because of regulations. Another opinion is that since such regulations are designed to prevent harm to the public, landowners should normally receive no compensation. A third opinion is that normally the burden of protecting the environment should be shared, in the sense that the government would help landowners meet the cost of complying with environmental regulations. What's your preference? Normally the public pays for any losses in property value, the landowner receives no compensation, or the public and the landowners share the burden of protection?

Public pays
Landowners bear cost
Cost shared

9. In some cases of land regulation, owners must apply specified management practices in order to be eligible for government benefits. Let's say the landowner is currently receiving annual payments from a production flexibility contract with USDA and by applying soil conservation practices on his land is a condition for getting the payments. But those practices increase costs and therefore lower the lands appraised value. Should the owner receive full compensation for the farm parcel's reduced appraised value, partial compensation to reflect that value of the annual payments, or no compensation?

Full
Partial
None

10. Let's say that an owner receives irrigation water at below market prices, and his farmland is more valuable because of this subsidy. Then, that owner learns that government has prohibited use of a certain pesticide on land like his. That regulation lowers his land's yields and its appraised value. Should the owner receive full compensation for the lower value? Or should there be at least some reduction in compensation because he is getting the irrigation water at subsidized prices? What do you favor? Do you favor full compensation or some reduction in compensation because of the subsidy or no compensation at all?

Full
Partial
None

11. In another example, a county highway department paves a dirt road to a 10-acre parcel, making that land more attractive for building homes. A county zoning regulation restricts residential buildings so that only 2 homes may be built on these 10 acres, but the owner would like to build 10 homes. Should the owner receive full compensation for the difference between that parcel's value for 2 homes versus its value for 10 homes? Or should there be at least some reduction in compensation because the county paved the road and thereby increased the land's value. What do you favor? Do you favor full compensation, or some reduction in compensation because the county paved the road, or no compensation at all?

Full
Partial
None

12. Perhaps some existing regulations should be modified or replaced with a different approach to avoiding conflicts over farmland. For example, when non-farm homes are built in agricultural areas, the new non-farm residents may complain about agricultural odors, dust or chemicals and may even sue the farmer to restrict their operations. One way of dealing with this kind of conflict is to let the residents and farmers settle their problems in court or in out-of-court settlements. A second way is for a state or local government to use its limited funds to pay the owners of especially important farmland who volunteer not to develop their land. A third way is for local government to zone land in important farming areas so that few homes may be built on it. Probably only one approach can be used. Which approach do you prefer? To have the parties settle conflicts in court, pay landowners who agree not to develop, or zone to restrict development?

Settle
Pay Landowners
Restrict by Zoning

13. Another type of farmland affecting farmland is that sometimes manure from livestock operations seriously pollutes streams, rivers or groundwater. One way to deal with this kind of problem is to have the people threatened by the pollution go to court against the livestock operators. A second way is for government to provide payments to livestock operators who volunteer to apply recommended practices that

prevent water pollution. A third approach is not to rely on volunteers but for government to require livestock operators near bodies of water to apply good manure disposal practices. The regulated operators would be eligible for cost-sharing payments. Would you prefer to have private parties settle conflicts in court, provide payments to operators who volunteer to apply recommended practices, or require operators near water to apply good practices?

Settle
Pay Volunteers
Require Practices

14. A third type of conflict is that sometimes when wetlands are drained, flooding occurs downstream because water runoff is no longer stored in wetlands. But if drainage of wetlands is limited, the appraised value of the land may be less than if it were drained. One way to deal with this kind of problem is to have people downstream threatened by flooding go to court against the owners of the wetland that is drained. A second way is for government to provide payments to owners of important wetlands who volunteer not to drain their land. A third approach is not to rely on volunteers but for government to use regulations to prevent the draining of wetlands important for flood control. Would you prefer to let private parties settle conflicts in court, provide payments to owners who volunteer not to drain their important wetlands, or use regulations to prevent the draining of wetlands important for flood control?

Settle
Pay Volunteers
Use Regulations

15. Here's a fourth kind of conflict. Sometimes when land is farmed, the lives of endangered birds or other animals are threatened. But if farming is limited on such land, its appraised value may be decreased. One way to deal with this kind of problem is to have private organizations of individuals who want to protect endangered animals approach farmers with some monetary offer. A second way is for government to provide payments to farmers who volunteer to protect those animals. A third approach is not to rely on volunteers but for government to use regulations to prevent harm to the animals. Would you prefer to have private organizations or individuals deal with the conflict, provide government payments to owners who volunteer to protect the animals, or use regulations to prevent harm to animals.

Private Settlement
Pay Volunteers
Regulate

16. The last type of conflict we need to discuss affects timber operations. Sometimes the machinery and vehicles used for logging disturb soil, and then the soil is washed by storm water into streams and rivers. Fishing, swimming, and other recreation may be negatively affected by this soil pollution. But regulations to limit logging may reduce the land's appraised value. One approach to this problem is to have people affected by the pollution to go to court against the timber operations. A second way is for government to provide payments to operators who volunteer to log the land in ways that do not cause pollution. A third approach is not to rely on volunteers but for government to require the use of logging practices that minimize pollution. The regulated operators would be eligible for cost-sharing money for the application of good practices. Would you prefer to have parties settle conflicts in court, provide payments to landowners who volunteer to use good logging practices, or require operators to use good logging practices?

Private Settlement
Pay Volunteers
Regulate

The next part of the interview contains questions that enable us to determine if our sample of landowners is representative. My first question of this kind is in what year were you born?

What is the highest level of formal education that you completed?

Do you own any land that this year is being used for raising livestock or livestock products, like milk ?

About how many acres do you own is being used this year for the raising of livestock or livestock products?

Do you own any land that this year is being used for the production of crops like grain, vegetables, tobacco, fruits, hay, sod or orchard crops?

About how many acres that you own is being used this year for the production of crops?

Do you own any land that this year is being used for the production of timber or timber products?

About how many acres that you own are being used this year for the production of timber or timber products?

Are you currently the owner of a logging enterprise in the sense of making day to day decisions about what to produce on the timber operation, how to produce it and when to market the products?

Were you ever an operator of a logging enterprise in this sense?

In what year did you stop being an operator of a logging enterprise?

Are you currently a farm or ranch operator in the sense of making day to day decisions about what to produce on the farm or ranch, how to produce it and when to market the products?

Were you ever a farm or ranch operator in this sense?

In which year did you stop being a farm or ranch operator?

Do you spend at least one month per year living in a home located on farmland or ranchland that you own?

Do you spend at least one month per year living in a home that's within 10 miles of farmland or ranchland that you own?

Does any of the farmland, ranchland or forestland you own have a stream, river, lake or other body of water on it or located next to it?

Does any of the farmland, ranchland or forestland you own have non-farm residences within 100 yards of it, that is, homes not connected with farming, ranching or forestry within a football field's length of the land's boundary?

Please think of the farmland, ranchland or forestland you own. Pick the parcel that is closest to a town, village or city, and please tell me how many miles there are from the town's border to the closest border of that parcel?

Is any of the farmland, ranchland or forestland you own subject to zoning by a county, township or city government, that is, is any such land subject to local government regulations about what can be built on it and what uses are legal on the land?

17. Has any of the farmland, ranchland or forestland you own ever been reduced in market value because of government regulations affecting wetlands? By market value we mean the price the land's owner is likely to receive if the land were sold. Has any of the land you ever owned been reduced in market value because of government wetlands regulations?

18. Was that reduction small in size, moderate or large?

19. Has any of the farmland, ranchland or forestland you own ever been reduced in market value because of government regulations affecting highly erodible land?

20. Was that reduction small in size, moderate or large?

21. Has any of the farmland, ranchland or forestland you own ever been reduced in market value because of government regulations affecting endangered species?

22. Was that reduction small in size, moderate or large?

23. Has any of the farmland, ranchland or forestland you own ever been reduced in market value because of government zoning regulations?

24. Was that reduction small in size, moderate or large?

25. Has any of the farmland, ranchland or forestland you own ever been reduced in market value because of some other kind of government regulations?

26. Was the reduction in market value because of that kind of government regulation small in size, moderate or large?

Here are my last few questions: This year does any of the land you own participate in the Conservation Reserve Program of rental payments on highly erodible land for 10 years?

This year does any of the land you own participate in the production flexibility contract program whereby owners or operators receive payments for a 7-year contractual period ending in 2002.

This year will a government agency provide any other kinds of payments or some kind of loan for your farmland, ranchland or forestland?

This year have you or will you purchase any irrigation water from a government agency?

In 1996 what was the approximate total gross revenues that you received from farmland, ranchland or forestland? That is what was the approximate total last year of any rental payments, sales and other earnings before expenses were paid?

< \$5000

\$5,000 - \$9,999

\$10,000 - \$24,999

\$25,000 - \$49,999

\$50,000 - \$99,999

\$100,000 +



American Farmland Trust

1920 N Street N.W., Suite 400
Washington, D.C. 20036