



# The Urge to Rule

*I'm from the government (or Green group), and I'm here to help.*  
By Tom DeWeese

**C**onservation easements. The Green Mafia tells us this is the only way to save the family farm. We're warned that 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."

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. 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.

Conservation easements are promoted by land trusts and environmental groups. Tax breaks are promoted. Even cash is offered to 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 farmland. The clever slogan, "Farmland lost is farmland lost forever" helps sell the case for easements. And farmers are falling into its trap across the country.

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.

Proponents say, "A conservation easement is a voluntary perpetual agreement that restricts nonagricultural 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.

## **The Facts About CE's**

In a typical conservation easement, a private land trust organization purchases some or all of the "bundle" of a property owner's rights. True, in exchange, the property owner usually 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 may receive relief from federal estate or inheritance taxes. Many states provide income tax credits and property tax relief. And the owner sometimes 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. 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 and use of fertilizer, etc., are all under the direction of the land trust. And there’s more. Certain details weren’t revealed to the landowner as he signed on the dotted line. For example:

- Trusts often resell 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 the new sustainable regulations, which alter best-management practices, driving up compliance costs. Eventually these cost increases can make it impossible for the farmer to work his land, forcing him to sell.

- Because ownership rights are muddled between taxes, restrictions and best-practice 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.

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

### Some 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 Legislature—a battle that continues to rage today without resolution.

In Fauquier County where Martha resides, the chief “conservation” group is a behemoth called the Piedmont Environmental Council. PEC has managed to work

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*Martha Boneta likes having her hands in the dirt. She bought her farm (opposite), restored the heavily deteriorated barn and turned it into a small store to sell her products, including honey.*

its way into every nook and cranny of the county, specifically the county development office and other agencies. PEC pressures farmers to establish conservation easements and it makes a ton of money from them. It’s good to be king.

In fact, PEC holds sway over nine Virginia counties and it brags that it has 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 heart of the famous Virginia horse country where throughout the state’s history the rich landed gentry have had the pleasure of riding their horses across vast open land in organized fox hunts. These horsy people are rich and powerful with huge estates in the countryside. Many have contributed to the PEC land conservation effort as a way to keep open space available for their foxhunting pursuits.

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 percent of its total landmass). A little research revealed an interesting detail. In reality, of the 23 percent of the land in conservation easements, only two percent of it is actually small family farms. The rest is basically the endless estates of the landed gentry who have found a way to not only keep the land open for their fox hunts, but also to reduce their property taxes.

### 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, this lady 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, Va. It had been on the market for at least six years, so she was able to purchase it at a very reduced price from the Piedmont Environ-



mental Council.

Everything was looking great for a woman anxious to get her hands in the dirt. She is into organic farming—just like the PEC advocates in their publications, website 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 as the purchase agreement was reached. 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 provide any tax credits. All the benefits went to

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for any kind of event, public or private. She was immediately threatened with fines of \$5,000 a day for each violation brought by the county. The evidence used against her was a photo of a child’s birthday party that Martha had posted on her Facebook page, allegedly proving that she had rented out the barn for an event. 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

sands of dollars of legal expenses as she fought to defend herself. Eventually, as a result of nonstop pressure and the threat of fines from the county, plus the pressure from PEC, not to mention a “coincidental” audit by the IRS, Martha was forced to close her farm store, seriously damaging 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.

### **Nongovernmental Control Equals Government Corruption**

Every American, especially farmers, should learn this lesson from Martha’s story: conservation easements, comprehensive planning, and controls over private property are always sold as a way to help. In reality they are a Trojan horse of corruption.

Corruption begins with the absolute influence and power unleashed by a nongovernmental organization like the Piedmont Environmental Council. It is aided by an elite few who seek to use government power for their own personal gain. And it is enforced by a compliant county board of supervisors which will use that power as a weapon to crush anyone who dares to stand up against it.

Today, that agenda of power and corruption is now showing itself in community after community—all under the overused and unsubstantiated excuses of environmental protection and local planning. ■

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*Martha had a birthday party in her barn for a friend’s child. The county planning board threatened her with fines of \$5,000 per day for each violation because it claimed the party was a commercial event.*

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 “CliffNotes” version:

Martha does not live on the farm; she owns a home close by. The conservation easement she signed said she could have a small 1,600-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. They also warned that she needed another permit in order to use the facility

weapon conservation easements can be in the hands of those who wanted to control her actions. The easement gave 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 continues to come back again and again, demanding to look into her private closets, and even banning her right to videotape the inspections on her own property.

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 and black slaves. To keep the farm animals from walking through, Martha installed a simple fence to protect it. “Violation,” said PEC. “It damages the viewshed.”

On and on went the harassment over such idiotic claims. Along with it came thou-