

ENCOURAGING CONSERVATION ON PRIVATE LAND: A BEHAVIORAL ANALYSIS OF CONSERVATION INCENTIVES

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ABSTRACT:

More than seventy percent of land in the United States is privately owned. As a result, individual landowners play a pivotal role in biodiversity preservation, open-space conservation, and wetlands management. Enforcing regulatory penalties against individuals is expensive, politically unpopular, and frequently creates negative attitudes towards environmental protection. Constitutional limitations severely restrict the ability of government to order improvements on private land or to require active management practices. Against this backdrop, policymaking has increasingly focused on creating incentive programs to motivate conservation and compensate landowners for practices that confer public benefits.

The major conservation incentive programs are: 1) tax deductions for transferring a property interest in developing land to an agency or nonprofit via conservation easement; 2) payments for term easements or conservation leases which restrict development or require conservation activities for a finite period of time; 3) direct payments or cost-sharing where the landowner is compensated at least in part for undertaking a specified conservation project; and 4) conservation banks where a landowner acquires credits for preserving threatened species and their habitats which can be sold to developers or other private landowners.

This Article aims to provide a comprehensive analysis of how individuals respond to incentives designed to motivate long-term behavioral change, an account that has been missing to date in the legal scholarship. I draw from research in behavioral and social psychology as well as the developing field of environmental psychology to consider the effectiveness of conservation incentives. In particular, I focus on the comparative efficacy of incentive programs for motivating action, maintaining behavior change, and preserving intrinsic motivation to act absent a reward. I conclude with proposals for improving the efficacy of conservation incentive programs and a cautionary note about the need to maintain realistic expectations for incentive programs.

OUTLINE

I. ENVIRONMENTAL HARMS FROM PRIVATE LANDOWNERS

A. Impact of Individual Behavior on Biodiversity and Open-Space

B. Incentive Programs for Conservation

1. *Conservation Easements*
2. *Term Easements and Leases*
3. *Cost-Sharing Programs*
4. *Conservation Banking*

II. BEHAVIORAL RESEARCH: HOW INDIVIDUALS RESPOND TO TANGIBLE INCENTIVES

A. An Introduction to Behavioral Learning Theory

B. Research on Tangible or Monetary Incentives for Pro-environmental Behavior

1. *Overview of Incentives Studies: Moderate Effects*
2. *Challenges of Changing Private Landowners Behavior*
 - i. *Incentive Must Continue across the Desired Temporal Span of Behavior*
 - ii. *Oversized Incentives Decrease Intrinsic Motivation*

III: SOCIAL PSYCHOLOGY: RESEARCH ON NON-MONETARY MOTIVATORS

A. Commitment Strategies and Pro-environmental Behavior

B. Social Rewards

V. APPLYING BEHAVIORAL SCIENCE TO CONSERVATION: PROPOSALS FOR INCREASING THE EFFICACY OF INCENTIVE PROGRAMS

A. Limiting Upfront Payments Unrelated to Outcomes

B. Scaling the Size of Incentives: Proportionality and Motivation

C. Expand use of social rewards and Commitment strategies

D. Regulation versus Incentives: Realistic Expectations for Incentive Programs