

SUMMARY AND PROCEEDINGS OF THE
MACKINAC CENTER FOR PUBLIC POLICY'S

Private Conservation Working Group Meeting and Public Panel



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Introduction

Most people readily recognize the concept of government-protected natural areas and resources, such as parks, state forests and wilderness areas. In fact, our national parks are often described as America’s “crown jewels,” providing recreation opportunities, protection of natural ecosystems and biodiversity, natural laboratories and places of learning, and physically preserving features of the nation’s heritage. All these factors play an important role in conservation.

At the same time, private — both for-profit and not-for-profit — and individual efforts can play an important role in managing the nation’s natural resources and achieving many common goals of conservation.

By inviting a diverse group of conservation organizations, industry experts and government professionals to form a working group on private conservation, the Environmental Policy Initiative at the Mackinac Center hopes to achieve four purposes:

1. Improve the Mackinac Center’s understanding of conservation efforts currently viewed as politically possible and desirable and highlight private or market-based conservation policy options.
2. Facilitate a broader discussion on private conservation as a means of educating the public about these efforts in managing Michigan’s natural resources.
3. Encourage bridge building, cooperation and coordination among groups involved with private conservation efforts.
4. To identify policy options that promote private conservation across the state.

This report summarizes the discussion and findings of the initial working group meeting, held at the Mackinac Center’s Midland, Mich., offices in the fall of 2018. The document does not attempt to cover every concept discussed. Follow-up activities for the working group include: publishing these proceedings, holding a second meeting in 2020 and developing legislative and policy recommendations to promote private conservation in the state of Michigan.



From left to right: Garrick Anderson, Greg Yankee, Jason Hayes, Amy Trotter and Laura Campbell

Working Group Participants

In alphabetical order:

- Rich Bowman, The Nature Conservancy, Michigan Chapter
- Laura Campbell, Michigan Farm Bureau
- Jason Hayes, Mackinac Center for Public Policy
- James Hohman, Mackinac Center for Public Policy
- Randy Keen, Arauco North America
- Lee Ann Keller, Omni Tech International, Ltd. (Group Facilitator)
- Tom Lenon, Chippewa Nature Center
- Susan Tangora, Michigan Dept. of Natural Resources
- Karen Thurlow, Midland Conservation District
- Amy Trotter, Michigan United Conservation Clubs
- Greg Yankee, Little Forks Conservancy

The Initial Meeting

During the one-day meeting, workshop participants were each given a block of time to present their views on private conservation in the state of Michigan. Working from a SOAR Analysis — distributed to group members prior to the meeting — and from their unique experiences, each described the strengths, opportunities, aspirations, and results they saw from their personal and sector perspective.*

In the meeting, participants were encouraged to leverage individual decision-making, private property rights and voluntary trade to improve conservation in the state. Further discussion and interaction helped to clarify and prioritize incentives involved with conserving natural areas.

What is Private or Free-Market Conservation?

Given that private conservation activities deliver a mix of benefits — meeting private demand while also providing public goods, such as ecosystem services — it can be difficult to separate the discussion of market-based and private means of incentivizing conservation from publicly funded means.† As a result, there was often a blending of private and public concepts during working group discussions.

While recognizing the value of protecting portions of the state's natural areas as wilderness, this working group is focused on promoting the wise use of privately owned or privately managed natural areas. Despite that agreement, it was clear that a certain level of confusion exists in the conservation movement over what constitutes private conservation, or how free-market conservation specifically could benefit the effort. Therefore, group discussion worked to determine the best ways to educate current supporters of conservation and to better understand the value of market-based conservation options.

Group consensus coalesced around the idea that private conservation is the management of natural areas in a way that prevents their degradation or discourages the diminishment of

* More information on SOAR analysis is available at <https://www.centerforappreciativeinquiry.net/faqs/soar/>

† The U.S. Environmental Protection Agency defines “ecosystem services” as, “Ecosystem goods and services produce the many life-sustaining benefits we receive from nature — clean air and water, fertile soil for crop production, pollination, and flood control.” “Ecosystem Services” (U.S. Environmental Protection Agency, Aug. 12, 2019), <https://perma.cc/K6QE-FJ4M>.

natural processes by nongovernmental individuals or organizations who possess the legal right to make decisions about how an area or property is managed. Additionally, the group highlighted that providing conservation advocates with a clear distinction between private and public efforts promotes better prioritization. Some efforts can be covered by public funding, while others require private backing and support.

The working group's discussion established that private conservation efforts in Michigan include privately owned and managed natural areas and nature preserves, or conservation easements that purchase development rights from landowners and hold them in perpetuity. Often these areas continue to be used for a variety of purposes including outdoor recreation, interpretation or hunting and fishing. In some cases, other forms of active management, such as limited harvesting of forests are employed to achieve and maintain a specific forest ecology or habitat type.

Common Themes and Points of Discussion

Several common themes were brought up in the working group discussion.

1. The movement needs clear goals and incentives.
 - a. What are the motivations that drive conservation activities?
 - b. How can we ensure consistent funding and the accessibility of resources?
 - c. What role do financial incentives play?
 - d. What role should funding sources like the Michigan Natural Resources Trust Fund play?
2. Red tape needs to be reduced and there should be better coordination of federal, state and local government requirements.
 - a. Conservation efforts would be more effective and efficient if government requirements could be streamlined and refocused on managing for conservation vs. managing for processes.
3. State agencies should play a role as facilitators, not managers of private conservation efforts.
 - a. Agencies provide a social infrastructure to support conservation.
 - b. Except in instances of legal or regulatory requirements, state government should serve as an information resource and reference for private conservation groups, but not take a

leading role in managing or funding private conservation projects.*

4. Certification programs should be meaningful and integrated with conservation efforts, but not punitive.
 - a. As with meeting other government process requirements, certification programs should not just insert another layer of burdensome or bureaucratic process.
 - b. Certification programs should be based in scientific findings and market-based demands and should be connected as closely as possible with the realities on-the-ground.

Identifying and Administering Incentives

We want the maximum good per person; but what is good?

To one person it is wilderness, to another it is ski lodges for thousands. To one it is estuaries to nourish ducks for hunters to shoot; to another it is factory land.

Comparing one good with another is, we usually say, impossible because goods are incommensurable. Incommensurables cannot be compared.

— Garrett Hardin, “The Tragedy of the Commons”

Each participant or organization in the working group engages in conservation activities for a specific set of reasons — as a primary organizational focus, as a public service to the state’s taxpayers and residents, as a means to promote better management of natural resources, as a means of promoting specific resource values, etc.

Organizational objectives will necessarily have an impact on the group’s outlook and willingness to promote certain conservation policies or funding mechanisms. For example, the Mackinac Center’s Environmental Policy Initiative is primarily focused on the development of efficient market-based policies that enable low tax rates, limited government and efficient environmental management and conservation. In contrast, other groups have conservation as their primary focus and may support any effort to that end. They may welcome additional funding for conservation, whether publicly or privately sourced, for example.

* Comments suggested during editing of this paper noted that some members of the working group “fully support the state and federal government funding private conservation as cost share/incentives, but maybe as a lower priority or narrower focus (threatened and endangered species/habitats for example not found within public ownership or practices that improve water quality) for these fully funded conservation projects compared to the public land/water resources.”

The differing incentives and the often-blurred lines between public and private means of promoting conservation highlights the importance of educating the public about the value of private conservation options.* The deliberate focus of the working group's efforts is, therefore, based solidly in the Mackinac Center-founded concept of the Overton Window. That is because the working group's efforts should help organizations and agencies to know what private conservation options are politically viable and potentially available to them.

From the Mackinac Center publication, "Overton Window of Political Possibility"†

The Overton Window of Political Possibility is a model developed to explain public policy change. When public policies ... are arranged from freest to least free, only a relatively narrow window of options will be considered politically acceptable. This window of politically acceptable policies is not defined primarily by what politicians would prefer; rather, it is defined by what they believe they can support and still win re-election. Hence, the window shifts to include new policies or exclude old ones, not when ideas change among politicians, but when ideas change in the society that elects them.

This working group project aims to coordinate conservation projects in the state, educate the public and encourage legislative or agency efforts that promote private conservation. That is, we will work to move the Overton Window in the direction of making private conservation opportunities better understood and more politically possible, and to expand opportunity based on examples of those options already in use and widely accepted. We see this effort as a "win-win" opportunity regardless of political affiliation in that it promotes private conservation — that does not require additional expenditures of tax dollars — while also promoting more effective management and protection of undeveloped, or minimally-developed, areas across the state.

Funding

A key issue that was discussed by the working group and recognized as a challenge for conservation organizations was their ongoing need to persuade donors to share in the upkeep of their mission and operations. A failure to address this need could leave an organization unable

* Funding sources such as public private partnerships, or P3s, specifically blend public and private funding and efforts to achieve certain overarching goals, or to provide services. For example, P3s are a popular means of providing park operations and management services. Park concession operators are often technically employed by a private company, but provide access and services to a public park facility.

† "The Overton Window" (Mackinac Center for Public Policy, 2020) <https://www.mackinac.org/overtonwindow>.

to continue its activities or forced to restrict activities. At the same time, this challenge was also viewed as a strength because, with the right donors, conservation efforts can buck government and market pressures.

Nonprofits may develop support for specific management techniques that may not be able to obtain public funding. Those nonprofits that hold a legal tenure right to land, or other private landowners that can afford to manage their properties to achieve a specific land management goal, don't have to respond to dissenting public pressures if their donor base believes in and supports their stated mission.

In the sense that this can be a difficulty for conservation, The Nature Conservancy and Chippewa Nature Center both restated the influence of preferences and perceptions of risk on private land use decisions. They reiterated that landowners with few financial restrictions can be both the easiest and hardest groups for conservation organizations to work with.

That ease, or difficulty, arises from the fact that landholders who have purchased land as a recreational area, or for investment purposes, and who can cover the expense with other sources of income, are relatively immune from pressures to manage in any specific manner, or for any purposes other than those they personally deem appropriate.

The working group, therefore, agreed that the freedoms inherent in private land ownership can be both a powerful help, or an equally powerful hindrance, to local conservation efforts. In a broader sense, however, we can and should recognize that it isn't necessary to conserve all private land, so the group can initially focus on two areas. First, to encourage those private landowners willing to become involved in conservation-focused land management strategies. Second, to help educate additional landowners about the benefits of managing for conservation purposes.

Tax incentives and public subsidies: Another area considered by the working group was methods to incentivize more conservation, while recognizing that a free-market focus would tend to discourage direct subsidies or payments from government funds to private entities.

Discussion on targeted tax benefits agreed that they are, at best, a mixed method of achieving market responses. A common method of encouraging specific land uses is to provide financial incentives to landowners in the form of tax credits. Economists generally agree the primary characteristic of an economically efficient tax policy is to have the lowest possible tax rate that is equally applied to across a broad base of taxpayers. Or, if a type of tax incentive is agreed on as the best option, the incentive should be defined as broadly as possible and opportunity to access that incentive should be applied to as broad a population as possible. A market-friendly regulatory policy must also, at a minimum, not spend beyond the ability to provide a tangible benefit, meaning the regulation or program costs must be restricted to keep them well under

the benefits they are expected to provide. Moving beyond these policy restrictions tends to favor specific individuals or groups, puts government in the position of picking winners and losers and distorts decision making processes.*

The working group discussion also tended to highlight the fact that special tax preferences can provide short-lived and easily reversed conservation successes. In their experience, a portion of those landowners interested in taxpayer-funded conservation will become involved with conservation projects because of the potential payments they might receive. These landowners do not take part because of some overarching ethic or commitment to the conservation ideal. Therefore, if policy or funding preferences are changed or removed, that landowner's interest in conservation is likely to wane. A loss of interest on the part of the landowner represents a direct challenge to conservation efforts that are focused on long-term and stable management of natural resources.

Additionally, government incentive programs are easily skewed to advance any land uses that enjoy a strong lobbying effort or that can curry political favor at a given time. For example, Michigan's Farmland and Open Space Preservation Program uses special tax incentives to encourage the preservation of farmland as the primary land use, but it is now being skewed to favor solar developments on land that had been "preserved" for farm use.†

In the same manner, one administration or legislature might favor a conservation-focused program today. The next administration could favor incentives that actively develop preserved or conserved lands. Conservation organizations do well to recognize that "policy certainty" is fleeting at best.

Michigan Natural Resources Trust fund

The working group also briefly touched on the topic of obtaining funding through the Michigan Natural Resources Trust Fund. An opening question was asked, "What's the hang up on nonprofits being able to access the trust fund?" Initial group response noted that this was not an accurate perception, and that public access to the fund is allowed. Another comment moved the discussion from private access to the dollars within the fund to suggest that a requirement for

* For more information, see: Adam Millsap, "Economic Perspectives: State and Local Tax Policy" (Mercatus Center at George Mason University, Jan. 12, 2016), <https://perma.cc/7TTV-HLEH>.

† Aaron Lehman, "State Gives Solar Preferences on Land 'Preserved' for Farmland" (Mackinac Center for Public Policy, Aug. 29, 2019), <https://perma.cc/6PRT-HPWR>.

public access to conserved lands should be a necessary requirement of receiving any funds from the trust.

Since the working group meeting, a coalition effort has been mounted by some members of the Working Group and other groups to propose amendments to the MNRTF. Those proposed changes are expected to appear on the 2020 ballot as State Joint Resolution O.

Discussion in this area was limited. We expect it to see it return in future working group meetings.

Reducing red tape and the role of government: Discussion on the issue of funding naturally led to determining the proper (or best role) for state government in relation to private conservation efforts. The working group agreed that reducing red tape and better coordinating interactions with, or the requirements of, various levels of government would go a long way to improving and expanding conservation in Michigan.

Work group participants pointed out that,

- Excessive paperwork stalls conservation districts, and that timeframes for project approvals are too lengthy.
- Industry and conservation organizations may have to fight through layers of repetitive and expensive red tape and permitting requirements imposed by various levels of government to be allowed to implement desired conservation programs.
 - For example, conservation groups are required to apply for the same state wetland permits whether they wish to perform wetland restoration or are trying to remove wetlands. Additionally, when groups obtain federal approval and funding for a conservation activity, the already-approved project is required to undergo state and federal environmental and species impact reviews, even when the project aims to improve habitats and environmental conditions.
- Levels of government may have differing ideas about how an area should be managed or can impose different regulatory structures and permitting requirements.
 - For example, local governments may push for development as a means of expanding their tax base, while federal agencies may prioritize conservation to balance landscape level objectives. Federal, state, or local governments working at cross purposes can stall conservation efforts, or force organizations and landowners into intractable situations.
- As noted above, landowners may want to manage private lands in a manner that conflicts with government or public desires.

- For example, landowners may wish to allow or restrict public access to their property in a different manner than local or state government agencies, or they may wish to manage an area for an ecological, interpretive, or recreation goal that differs from governmental priorities.

To help streamline processes, the working group agreed that government agencies should be encouraged to facilitate management, as opposed to becoming directly involved in managing or overseeing the funding of private conservation. At a more generalized level, state government agencies were described by the working group as representing a social infrastructure that could support private conservation by keeping an effective focus and efficient delivery of required government services. They could most effectively aid private conservation efforts by using their broad connections to encourage collaboration, provide coordination, and help to map out conservation priorities or priority areas.

Another possible example of effective streamlining efforts includes the 2017 federal executive order that requires a single, “lead agency” to oversee environmental impact assessments and permit reviews. Having a single agency act as the lead in these cases reduces repetition and speeds the process. Associated federal streamlining efforts include proposed National Environmental Policy Act updates that limit EIS page lengths and require agency decisions within a two-year window. Implementing similar updates at the state level could help to speed permit reviews/approvals for conservation activities.*

Where third-party certification programs — such as Forest Stewardship Council — are sought or established, state agencies could best promote private conservation efforts by helping to ensure certifications were meaningful, affordable, nonpunitive and integrated with other efforts.† Participants pointed to a harmonization of standards, with a strong auditing and verification process as an opening area of opportunity.

Conservation

The group also pointed out that the ability to achieve a desired level of conservation is altered by two key issues: the role of education in improving public understanding and support of conservation and the role of property rights and the priorities of the tenure holder.

* “Presidential Executive Order on Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure” (The White House, Aug. 15, 2017), <https://perma.cc/8PL7-J89H>.

† For more information about the Forest Stewardship Council, see: <http://www.fsc.org>.



The conversation ended with a dinner panel at the Red Keg in Midland, Michigan. This event was attended by 42 people and invited good discussion

Education: A great deal of effort was spent on considering how conservation groups, government, or others can most effectively educate the public about the value of conservation. That is, what can conservationists do to move the general public toward an individual conservation ethic?

The group agreed that conservation efforts were more likely to be successful and widely supported if conservationists were able to move the uninitiated public through a continuum of awareness about the value of conservation. This means that group members argued for an educational process that first developed a public interest in conservation, then encouraged a broad public conversation about it, and then moved the public to more of an advocacy role where they broadly support and seek out more.

Such an effort would entail moving past the current and widely practiced “preaching to the choir” approach, to bringing a larger portion of the population into the mix as well. Working group participants recognized that those people who already support conservation efforts likely do not require further convincing and argued that there was value in expanding education and outreach to the uninitiated public.

Chippewa Nature Center’s work elaborated on the process of creating new conservation advocates. Their activities prioritize reaching out people that do not have a strong connection to nature. Their target audience did not grow up hunting, camping, hiking, etc. and are likely

to have come from an urban or suburban setting. Many of their first-time visitors are unlikely to have seen wildlife in their natural habitat, and grew up focused on urban sports like baseball or basketball, rather than recreating in a wilderness setting. Chippewa's focus, therefore, is to have initial visits to the Center prioritize "entry level" experiences that teach visitors the most basic facts about the natural environment. By doing this, they allow them to build an affinity for natural areas, trees and wildlife at their own pace.

Other examples of effective introductions to nature discussed include:

- Self-guided interpretive information offered at the Little Forks preserves
- The Canopy Walk at the Whiting Forest of Dow Gardens

Participants discussed the idea that the public is willing to spend private dollars to enjoy and protect the ecosystem, a benefit that society as a whole enjoys. That is, some conservation supporters are willing to help cover the costs of positive externalities in the form of ecosystem services like cleaner air, cleaner water, etc., for the public at large by investing their own money in conservation. When the public at large is not willing to make this type of investment, the working group wondered whether demands for public dollars to support those open spaces are just being pushed onto the public by a select group of special interests?

Another issue that the working group included in the education issue, but that blended between the two categories — education or property rights — was how conservationists could encourage landowner support. With private land making up more than half of the forested areas in the United States, at least some private landowners would necessarily need to be active participants in overall conservation efforts.*

Here, working group members reiterated the idea that working with landowners could be either the easiest or most difficult task that conservationists would face. That is because a cooperative and interested landowner would be far more likely to encourage conservation while a noncooperative or disengaged landowner could resist conservation efforts, choosing to develop, conserve or use their land for another purpose. Comments from the group pointed out that a textbook conception of a perfectly efficient market requires that individual actors make fully informed and rational decisions. However, a landowner, with a competing viewpoint and sufficient financial resources, could manage their property in a manner that government managers, other landowners, or conservation groups do not consider "rational."

* "Who Owns America's Trees, Woods, and Forests?: Results from the U.S. Forest Service 2011-2013 National Woodland Owner Survey" (U.S. Department of Agriculture, March 2015), <https://perma.cc/72F8-9BHU>.

While this is true, decisions to protect or develop certain areas are clearly, and have always been, preference-based. Therefore, building consensus on what constitutes a “rational” land use decision would change depending on an individual or group’s end goals. Additionally, if a landowner’s choices were so profoundly damaging that they negatively impacted other adjacent property rights, they could rightly be compelled, via the courts, to change that behavior.

Another way to state this concept is that a property owner cannot claim a property right to infringe on the rights of their neighbors. For example, some landowners have used Common Buckthorn (*Rhamnus carthartica*) — classified as an invasive species both by the U.S. Department of Agriculture and the Michigan Department of Natural Resources — as an ornamental shrub because of its ability to thrive in a variety of soils and climates and for its deep green foliage.^{*} The landowner can make a strong argument about their right to plant Common Buckthorn until they allow that plant to propagate itself outside of their property boundaries.

Adding to the depth of the issue, Chippewa Nature Center interjected that, while invasive species are a problem for the state and conservation areas, they can also be used as an educational opportunity. They described how they rank areas within their preserve where an invasive species like Common Buckthorn has become established as high, medium, or low depending on the extent of regeneration. After prioritizing some for treatment to remove the invasive species and leaving others, they classify areas with dense buckthorn growth, that has pushed out native plants, as “Buckthorn alleys.” Those areas become part of their education programs to show how proactive conservation efforts (i.e., actively removing invasive species) compares with passive or reactive conservation (i.e., simply leaving an area to grow without intervention). Teaching the public how an invasive species can push out native species encourages the public to stop actively planting or propagating or encouraging, or even simply ignoring, their growth.

It was clear that some working group participants expected landowners to take on an equally text-book-defined Leopoldian land ethic.[†] But, once again, whether that ethic is rational or not depends on one’s preferences. For example, one working group participant described the anecdotal case of a farming landowner. The farmer was uninterested in planting marginal areas

* “Common Buckthorn” (U.S. Department of Agriculture), <https://perma.cc/UH59-SJCM>; “Common Buckthorn” (Michigan Department of Natural Resources, Feb. 2012), <https://perma.cc/UKT9-J5GD>.

† For more information, see the Aldo Leopold Foundation’s discussion of “The Land Ethic” at <https://www.aldoleopold.org/about/the-land-ethic/>.

of the farm with wildflowers to increase pollinator habitat. However, a neighboring farm family did plant pollinator species in the marginal areas of their farm. This prompted the farmer's spouse to advocate for pollinator plantings on their own farm for the aesthetic quality. The farmer eventually capitulated, purchased the seed, and spent time working marginal areas of the farm to provide pollinator habitat. From a conservationist worldview, the decision was eminently rational. The farmer's business plan might have suggested a different view.

Property Rights: The second issue that consumed much of the working group's time was the issue of tenure-holding nonprofits and their rights to make management decisions about a portion of the land base.

One value of conservation organizations lies in the fact that they often have fee-simple ownership the land being managed. That ownership entails their legal right to control access to the land and to make management decisions for their preserves.^{*} Publicly managed natural areas must operate in a decidedly different sense. These areas can be caught up in the legislative and regulatory notion that a natural equilibrium, or balanced end state, exists in nature. The Mackinac Center publication, "Conflict to Cooperation" described this legislative and regulatory pressure that is imposed on public land managers, often forcing them to work toward preservation of most natural areas.

"A number of requirements — legislative, administrative and public demands — impose competing priorities on federal land managers. They develop in part because of two competing views of how to best manage the environment ... Federal land managers recognize how these competing interests can effectively stall management of national lands and preclude any but the most basic wilderness recreation uses. They refer to this reality as their "process predicament." ... Conservation-focused legislation requires federal managers to allow natural resources — timber, water, wildlife, minerals — on or under federal lands to be used, or extracted, as a means of meeting basic human needs. Preservation-focused legislation, however, often forbids that same resource use and extraction, focusing instead on protecting natural areas in an allegedly pristine state. Handling these conflicting directives only increases the process predicament for federal land managers, as attempting to resolve these conflicts requires maneuvering through and around significant procedural hurdles."[†]

* Fee simple ownership entails a different responsibility than owning or overseeing the enforcement of conservation easements, which by their nature constrain the use of easement owner to a contracted use.

† Jason Hayes, "Conflict to Collaboration: Collaborative Management of Federal Lands in Michigan" (Mackinac Center for Public Policy, Oct. 30, 2018), https://www.mackinac.org/conflict_to_cooperation.

Much of the stricture faced by public land managers is based in the romanticized notions that public lands must be — or that they even could be — managed in a pristine, or wholly “untrammelled” state.* The PERC publication, “Environmental Policy in the Anthropocene” describes “a new generation of ecologists [that] is challenging the idea of an inherent balance in nature based on the lack of empirical support. Moreover, scientists are concluding that human action cannot readily be separated from the natural world.”†

Natural areas management is necessarily a balancing of human desires and priorities. Romanticized notions of returning an area to some prehuman or at least pre-Western contact state are being abandoned with the recognition that any human management decision — including managing an area as wilderness — will prioritize human values. Where management decisions about public lands are often hampered by the value-based process predicament described above, privately owned natural areas and preserves can offer another option because they do not face the same restrictions on their management.

For example, Little Forks’ Averill Preserve meets the preferences of its benefactors by focusing on an interpretive expression of Michigan’s historical use of the Tittabawassee River as a log staging area. A necessary extension of this value includes the conservation of the river’s riparian ecosystem.‡ By prioritizing these values, The Little Forks Conservancy necessarily precludes some other values, such as preservation of old growth forest, or managing for endangered species habitat. At the same time, Little Forks owns different preserves that can focus on other selected values. For example, the Forestview Preserve focuses on preservation of wetland ecosystems and local amphibian species.§

It is also worthwhile to reiterate the goal of the working group here by noting that prioritizing private conservation does not detract from public actions to promote and preserve wilderness in national and state parks or wilderness preserves. Furthermore, private preserves, that can legally preclude human presence are also a possibility.

Conservation easements: Conservation easements are also a common economic tool to promote conservation on lands that are not owned by conservation groups. Easements are legal

* Public Law 88-577, “The Wilderness Act” (Sec. 2(c)), <https://perma.cc/485U-3VAT>.

† James L. Huffman et al., “Environmental Policy in the Anthropocene” (Property and Environment Research Center, 2016), 10, <https://perma.cc/Z2ZZ-S22T>.

‡ For more information, see: <https://www.littleforks.org/averill.html>

§ For more information, see: <https://www.littleforks.org/forestview.html>

agreements that bound landowners to preserve certain elements of a property or to carry out some land use consistent with the established conservation goals for the land. Depending on state laws, the landowner can be paid or receive a favorable tax benefit for the foregone value of the land.

Those who recommend easements as a workable conservation tool were cautioned about what activities that tool would incentivize. Little Forks noted that experiences in Colorado tended to push interest toward the “best land.” This is, of course, a preference-based description of land that contains impressive viewscapes or imposing geography vs. a broad, representative sample of biomes within the broader landscape. This preference tends to skew the amount of land that is conserved away from that broad, representative sample. They also recounted how easements have come under increasing scrutiny due to their potential abuses associated with “syndicated easements” that involve the trading of over-valued charitable and poorly monitored land donations.*

The working group recognized that, while protecting the land under contracts is a good idea in theory, conservation easements can be far more interesting to people who have not been involved with their on-the-ground management. One owner may fully support and implement the easement restrictions, but a change in ownership or financial position could lead to tensions and pressures to change the terms of the easement contract. Critiques of easements focused on the fact that there is little concrete regulation of the number or type of easements.

They were also critiqued in that while they do provide an initial infusion of money into a group, they do not provide an ongoing stream of income. So, while an organization might be able to make use of the initial injection of cash, easements require a long-term commitment to monitor and enforce. Enforcement efforts can quickly eat up limited budgets and make it very easy for the easement owner to lose interest as funds are expended and begin to put financial pressures on other priorities. Group members also pointed out that it is very easy for the easement owner to be viewed as the “bad guy” by the land owner if they must enforce contract provisions requiring (or prohibiting) certain activities on the land.

A 250,000 acre parcel owned by the King Kamehameha School in Michigan’s Upper Peninsula was discussed as an example. The land was part of a larger area offered for sale by the King Kamehameha Trust.† Following the sale, a “working forest conservation easement” was

* Adam Looney, “Charitable Contributions of Conservation Easements” (The Brookings Institution, May 2017), <https://perma.cc/8XCQ-3PSA>.

† “Governor Leads Effort to Defend U.P. Land,” (State of Michigan, 2020), <https://perma.cc/BT39-AKD6>

purchased between 2002 and 2010 by a public-private partnership between Michigan's Department of Natural Resources and Natural Resources Trust Fund, and The Nature Conservancy.* TNC noted that they took the easement route because they were outbid for a fee-simple purchase. Over time, managing the easement has proved difficult for state managers.

Conclusion

The opening meeting for the Mackinac Center's Private Conservation Working Group was a helpful and enlightening effort that brought together a diverse group of organizations and agencies directly involved with conservation efforts across the state.

The first meeting was successful in achieving the first three of objectives and in setting the stage for further work in all of those areas. As we host the second, and other future, meetings, we now have a firm foundation on which to achieve the fourth objective of identifying and promoting policies that will expand private conservation in Michigan.

* "Board of Trustees Meeting Minutes of June 13, 2012" (Michigan Natural Resources Trust Fund, June 13, 2012), <https://perma.cc/M4N8-2NCN>.

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