Indemnification

- 1. Negligence of the land/rights owner
- "Express negligence" rule requires that contracts specifically state that the party entitled to indemnification (indemnitee) be expressly entitled to indemnification for liability arising from his own negligence or other misconduct. One would expect that provisions of regulations or statutes would require similar clarity. In addition whether the indemnitor has a duty to defend (pay attorney and expert fees, and other costs of the action) should also be made clear.
- 2. Adverse impact on security agreements (including USDA farm and rural housing loans)
- acceleration of sums due under note
- capture of royalty payments to repay principal
- 3. Adverse impact on obligations under conservation easements
- 4. Recapture of Federal/state conservation program payments
- 5. Adverse tax impacts
- tax on royalty payments captured to repay principal on debt obligations secured by the property
- additional tax as the result of interference with the land/rights owner's tax timing strategy
- 6. Complete or partial loss of the reduced property tax rate under the North Carolina present use value (PUV) tax program for agricultural, horticultural, and forest land
- 3 year rollback liability
- additional current and subsequent year tax liability
- 7. Impact on "investment-backed expectations"