Committee on Resources
Full Committee

Witness Testimony

Testimony Before

US CONGRESS

HOUSE OF REPRESENTATIVES

COMMITTEE ON RESOURCES

HR 701 -- Conservation and Reinvestment Act of 1999

and

HR 798 -- Permanent Protection For America's Resources 2000 Act.

March 31, 1999

Anchorage, Alaska

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Thank you Mr. Chairman, for ensuring that testimony from Alaskans is heard by the Committee on these two pieces of legislation, either of which, if enacted in their present form, will ultimately have profound and far reaching effects on people living and doing business in rural America and especially here in Alaska.

I am Ray Kreig. I came to Alaska in 1970 and I'm an inholder in four places: Kantishna in Denali National Park; Millers Camp in Yukon Charley National Preserve; Three Saints Bay in Kodiak National Wildlife Refuge; and Treat on the Big Piney Creek National Scenic River in the Ozark National Forest, Arkansas. I am Chairman of the Kantishna Inholders Association and Chairman of the Arkansas Scenic Rivers Landowner Association. Today I am here testifying in an individual capacity.

Before proceeding Mr. Chairman, even though my time is limited and there are many important things which must be said within the five minutes allotted to witnesses, I want to recognize your three decade long career in service to the people of Alaska. You and your family's roots go deep in our state. You've served as a boat captain on the mighty rivers of our interior. You know the land. And you have used that knowledge

to defend the lands, mining claims, businesses, and rights of rural Alaskans that have continued under siege since the D-2 struggles of the 1970's. I thank you.

ANILCA IMPLEMENTATION IS PROLOGUE TO LANDOWNERS FUTURE UNDER A LAND TRUST

President Carter declared national monuments across Alaska in 1979 and the conflict raged between those who wanted to lock up as much of the state as possible and those who had a more balanced perspective that recognized human habitation and economic activity as a normal part of the landscape.

The Alaska National Interest Lands and Conservation Act was a grand compromise. No party received everything that it wanted, but the deal crafted by Congress incorporated guarantees of access, and valid existing rights for communities, land owners and residents who were enveloped in the new conservation system units. The presence of these guarantees in ANILCA substantially calmed the passions and fears of those affected by the monument declarations.

But, Mr. Chairman, as you well know, the intent of Congress as codified in ANILCA was not followed. Since then you have seen how promises made to inholders of the conservation system units to preserve our existing rights of access and economic activity have been abridged, undermined, and disregarded by the federal government.

You have been a champion for Alaska's rural residents, and I think you know very well from this experience the difficulties of designing protections in legislation that will self execute properly, without unintended consequences, in the face of a well financed and determined bureaucracy working with special interest groups that do not agree with objectives embodied in an original legislative compromise.

Where I am going with this is that the private property protections in HR 701 are weak and will be ineffective in protecting land owners from agencies and vocal pressure groups who really want Congress to give them the unchecked condemnation powers in HR 798. As long as you supply the trust fund money, the ultimate result will be the same as under HR 798.

The protection of valid existing rights in ANILCA was undermined -- in many cases by the very agencies charged with implementing the will of Congress. Let me mention just one example of many: Mining.

The right to produce one's claim was a valid existing right that Congress intended to continue in the new conservation system units. Within only seven years of passage of ANILCA, the National Park Service acquiesced to a friendly lawsuit filed by environmental organizations and mining in all of Alaska's national parks was shut down by injunction. The miners then suffered years of flagrant abuse as they were dragged through insincere and biased mining claim validity determinations and burdensome attempts to comply with ever increasing Park Service demands for more and more detailed mining plans of operations, all designed to exhaust the resources of claim holders and increase their risk and expense, ultimately driving many of them into bankruptcy (see Senator Murkowski's November 6, 1993 hearings, *Mining Activities in Units of the National Park Service in Alaska*).

Mr. Chairman, mining is just one example. There are many others: denial of access, the current controversy over snow machine access regulations, fishing in Glacier Bay, etc.

Mr. Chairman, in 1981 rural residents and users of the lands trusted in the fair administration and execution

of the ANILCA compromise crafted by Congress. Had they been able to look even the short time of ten years ahead at the unfairness and bias of implementation, things might not have quieted down at all!

It is this recent history of the disregard of the intent of Congress as expressed in a nationally agreed upon compromise that makes me fear and forecast that the weak land owner protections in HR 701 will easily be undermined and circumvented, and in the end will be ineffective. How the agencies will get around the prohibition on condemnation is well described, Mr. Chairman, in the letter sent to you on 2/8/99 by Frontiers of Freedom Policy Director Myron Ebell (attached).

Based solely on my own self interest, maybe I should support these bills, HR 701 and HR 798. As a property owner in four places presumably targeted by these two bills there would be a lot of money available. However, taking a longer view, society will be better off if less land is transferred from private to government ownership. I, like most inholders, want and plan to use or enjoy my property, not sell it to the government.

I am not opposed to government purchase of private lands when there is an adequately reasoned public purpose. However, a dedicated off-budget trust fund is created by both of these bills. That feature places private land acquisition by government at an unreasonably high level of national priority. I have reviewed the 1,600 pages of hearings held from 1988 to 1990 on the American Heritage Trust Act, which also proposed a similar land acquisition trust fund. Nowhere was there reference to a cost-benefit study that would help the American people decide whether the expense to the federal treasury and the dislocations and social costs to rural America are justified.

Government land acquisition in the political climate of the last 30 years is a one way street. Mistakes made are virtually impossible to repair. The cumulative effect of government land purchases, even when only truly willing sellers are involved, eventually will strangle and kill a community and local culture.

When North Cascades National Park was created in 1968, the National Park Service and the environmental community wanted the Lake Chelan community of Stehekin inside the park. Congress said no and specifically directed that it was to be excluded and placed in a less restrictive national recreation area. To protect the community, lands were not to be acquired. In direct contravention of Congressional intent, only 13 years later, the National Park Service had acquired most of the real estate in Stehekin, and the town died. The General Accounting Office audit ordered by Congress revealed that the National Park Service disagreed with the intent of Congress and the NPS went ahead and destroyed the community anyway. The GAO audit recommended that the Park Service be forced to divest the lands back to private owners, but this was not carried out. Today, Stehekin largely remains in government ownership.

QUESTIONS

Several basic questions become apparent after consideration of the debate over these bills:

1) **What reason is there for net transfer of even one more acre of private land in Alaska to the federal government?** In Alaska it should not even be a goal to have "No Net Loss of Private Land". Exclusive of native corporations, there is only one third of one percent of our state in private land as it is! We should be going in the other direction, conveying more federal land to private ownership.

2) A wise steward takes care of and protects what he has before buying even more land. Everyone agrees there is an unmet multi billion dollar maintenance backlog on government property and facilities already.

Why can't LWCF funds be freed up to address this backlog? Why restrict use of the federal LWCF funds to land purchases?

POSITION ON BILLS

HR 798, is similar in concept to the massive land acquisition agenda of the American Heritage Trust Act of 10 years ago. Both are based on the unappropriated trust fund concept. I didn't believe this was good public policy in 1988 nor do I believe it is now. It should be rejected, as it was by Congress in 1990 after an outcry by Americans across the country.

HR 701 has the desirable feature of sharing the revenue from outer continental shelf leasing funds with affected coastal states and communities.

Mr. Chairman, you may think that in HR 701 you are crafting a grand congressional compromise similar to ANILCA. However, also similar to ANILCA, there will be those powerful interest groups and agencies that will not be satisfied with your "compromise". They will actively start undermining it with confederates in the resource agencies the day after it is signed. The trust fund properties of its Title II will be an open invitation to abuse by those who wish to thwart and circumvent the will of Congress. The recent lessons from ANILCA history demonstrate that ways have not been perfected to effectively manage agencies that are dissatisfied with direction they receive from Congress. This will be especially so with funding not subject to annual appropriation and review. Please do not deceive us. Do not repeat the mistakes of ANILCA.

For these reasons, HR 701 is fatally flawed and any benefits from the revenue sharing will not be worth the terrible cost to American values and society that will result from the land trust entitlement. In closing, I refer to Resolution S99-12 recently passed unanimously by the Organizational Convention of the California Republican Party. I cannot improve on their reasoning:

A RESOLUTION OF THE CALIFORNIA REPUBLICAN PARTY (S99-12)
RESOLUTION OPPOSING S. 25 AND H.R. 701

Relating to the Expansion of the Federal Land Estate

WHEREAS, nearly forty seven percent of the state of California is already federal land and vast portions of the states in the West are federal holdings; and

WHEREAS, the expansion of the federal estate would serve to decrease local property tax bases, disrupt rural economies, further decrease our important natural resource-based industries, and interfere with the basic freedom of owning private property while doing little or nothing to improve the quality of the environment; and

WHEREAS, when certain specific purchases of lands by the federal government are justified they should be after the specific debate and approval of Congress; and

WHEREAS, the California Republican Party is the party of freedom, individual liberty, and private enterprise, and the expansion of the federal land estate is directly contrary to Republican ideals; now

THEREFORE BE IT RESOLVED, that the California Republican Party strongly opposes any new initiative

by Congress to create land trust funds from the Land and Water Conservation Fund or any other revenue stream that is an entitlement program or serves the purpose of expanding the already vast amount of land holdings; and

BE IT FURTHER RESOLVED, that the California Republican Party strongly urges other state and local governments to also oppose S. 25, H.R. 701, or any expansion of the federal estate or creation of a land trust fund. (2/28/99)

Mr. Chairman, I thank you.

KEY BACKGROUND SOURCES

Internet Websites

U.S. Congress, House Resources Committee: **resourcescommittee.house.gov/ocs**

American Land Rights Association website: **www.landrights.org**

Hearings

American Heritage Trust Act of 1988 -- HOUSE -- May 17 and 19, 1988, Washington, DC; June 24, 1988, Atlanta, GA; June 24, 1988, Denver, CO; June 24, 1988, Philadelphia, PA -- *877 pages*. GOV DOC NO: Y 4.In 8/14:100-62

American Heritage Trust Act of 1989 -- HOUSE -- Washington, DC, April 6, 1989 -- *315 pages*. GOV DOC NO: Y 4.In 8/14:101-12

American Heritage Trust Act -- SENATE -- Washington, DC, April 25, 1990 -- *406 pages*. GOV DOC NO: Y 4.En2:S.hrg.101-754

Mining Activities in Units of the National Park Service in Alaska -- SENATE -- Anchorage, AK, November 6, 1993 -- 124 pages. GOV DOC NO:

Trends in federal landownership and management -- HOUSE -- Washington, DC. March 2, 1995 -- 91 pages. GOV DOC NO: Y 4 R 31/3:104-3

Trends in federal landownership -- SENATE -- Washington, DC. February 6, 1996 -- 70 pages. GOV DOC NO: Y 4 EN2:S HRG.104-423

Newspaper Articles

Feds Private Land Purchase Trust: a Bad Idea by Rick Kenyon. Reprinted in the Voice of the Times, *Anchorage Daily News*, March 12, 1999 -- *INCLUDED WITH THIS TESTIMONY, PAGES 15 TO 17.*

Other

American Land Rights Association Response to Misleading Information Issued by Congressional Committee Staffs on The Conservation And Reinvestment Act (HR 4717, 105th Congress and S 25, 106th Congress) --

INCLUDED WITH THIS TESTIMONY, PAGES 7 TO 10.

2/8/99 Letter to Chairman Don Young from Myron Ebell, National Policy Director, Frontiers of Freedom -- *INCLUDED WITH THIS TESTIMONY, PAGES 10 TO 15.*

American Land Rights Association Response to Misleading Information Issued by Congressional Committee Staffs on The Conservation And Reinvestment Act (HR 4717, 105th Congress and S 25, 106th Congress)

On 1/15/99 House Resources Committee Chairman Don Young's office sent out a comment sheet entitled THE TRUTH ABOUT THE CONSERVATION AND REINVESTMENT ACT. It is the same sheet that was sent by Senate Energy Committee Chairman Frank Murkowski's office about the same time. *The text on this sheet is given below in italics;* ***committee staff's version of private property concerns received, "Allegation", is given in bold italics.***

American Land Rights Association Comment is given in bold. Prepared by Chuck Cushman and Ray Kreig 1/18/99; revised 1/27/99 to reflect the minor changes in the reintroduced S 25.

"ALLEGATION": The bill is a threat to private landowners. >

COMMITTEE STAFF "FACT": The bill only provides money for willing sellers -- persons who may have been willing for years to be made whole by the Federal government. It does not authorize any condemnation authority.

ALRA - THE REAL STORY: The fund restriction on land condemnation for FEDERAL purposes is a deceptively alluring "protection." Myron Ebell, policy director of Frontiers of Freedom says "THE BILL PROHIBITS CONDEMNATION, BUT THIS PROTECTION FOR PRIVATE PROPERTY OWNERS IS LARGELY COSMETIC. FEDERAL LAND AGENCIES HAVE PERFECTED METHODS FOR USING FEDERAL ENVIRONMENTAL REGULATIONS AND LAND MANAGEMENT LAWS TO COERCE PRIVATE OWNERS INTO SELLING THEIR LAND TO THE GOVERNMENT." Providing the funding through a dedicated, off budget perpetual money pipeline gives the agencies the funds to pressure landowners to sell. There are numerous instances where federal agencies have managed to acquire land even when specifically ordered by Congress not to (example: North Cascades National Park). As long as they are supplied with money, Federal managers have ways of dealing with landowners that they can not legally condemn. They will create even more "hardship cases" (legally so-called "willing sellers") by using tactics such as ceasing road maintenance or snow removal, closing roads, scaring buyers off with threats of regulation, withdrawing permits, causing circuitous routing that increases the costs of utility lines, and other harassment stopping just short of outright condemnation. This is why, since 1978, the House Appropriations Committee has retained the responsibility to oversee all land acquisitions. While Congress has generally done a poor job of this oversight at least there is now a forum and some opportunity to confront the worst system abuses that occur. THIS OFF BUDGET TRUST WILL END ACCOUNTABILITY AND OPEN THE WAY TO EVEN MORE ABUSE. The fund restriction on land condemnation is completely lacking on the grants provided that would allow STATE AND LOCAL GOVERNMENTS to be conduits for private land condemnation. In addition, it is not fiscally responsible to take such a large amount of money out of the yearly budget prioritization which is a weighing process which should be done against national needs that change from year to year.

"ALLEGATION": Congressman Young (Senator Murkowski) is sponsoring a bill to make a $1.5 billion land acquisition trust fund. >

COMMITTEE STAFF "FACT": At no time are funding levels even close to $1.5 billion for Federal land acquisition. Congressman Young (Senator Murkowski), along with the House authors, are sponsoring a bill to provide a portion of Federal revenue generated from Outer Continental Shelf oil and gas production to coastal states. The bill also provides money to fund the Land and Water Conservation Fund and state wildlife conservation programs. At present, states are receiving no monies from OCS revenues for important infrastructure, park, recreation, and wildlife programs.

ALRA - THE REAL STORY: This one time decision to set up multiple year entitlement funding can result in many billions of dollars being spent for land purchases in the next decade. As long as yearly appropriation votes are to be eliminated, THIS IS A MULTI BILLION DOLLAR DECISION. The bill mandates that 42% of the Title II funds must be used for Federal land acquisition ($159 million nationally). There is no prohibition in the bill on using the remaining funds in the $2 billion off budget trust for land acquisition. The step of moving from yearly appropriation and accountability for land acquisition funding to an unsupervised perpetual fund is a dangerous and dramatic change that gives immense latitude and discretion to unelected bureaucrats. NO WAY TO GET RID OF AN ENTITLEMENT LIKE THIS ONCE IT STARTS.

"ALLEGATION": The bill is a threat to private property ownership throughout Alaska. >

COMMITTEE STAFF "FACT": The bill does not impact any private property in Alaska, or anywhere else in the United States. Rather, the bill provides significant new revenues to the State of Alaska including more then $110 million for coastal and marine programs, $16 million for state and local park and recreation programs and $23 million for state wildlife conservation and education programs.

ALRA - THE REAL STORY: TO SAY THAT THE BILL DOES NOT IMPACT ANY PRIVATE PROPERTY IS BLATANTLY UNTRUE AND MISLEADING FOR THE REASONS STATED ABOVE (AND BELOW). A minimum of $6.9 million/year is earmarked for Federal private land acquisition right here in Alaska and there is no prohibition against spending even more for that purpose as long as it is designed to be done under other parts of this bill. Consider what happened with the $900 million Exxon Valdez Oil Spill Settlement Trust. Half the money was used to buy private land in a state that is already 88% government owned! This result was never contemplated when the EVOS trust was set up. The money was supposed to be used for research and rehabilitation.

"ALLEGATION": Bill supports land trusts, like the Nature Conservancy. >

COMMITTEE STAFF "FACT": The bill does not provide money for the Nature Conservancy or other land trusts.

ALRA - THE REAL STORY: ALSO UNTRUE. There is no prohibition in the bill of land trust involvement. Just because they are not mentioned by name in the bill as recipients does not mean that they will not continue to be conduits for Federal land purchase money as they always have been.

"ALLEGATION": The bill would guarantee Federal agencies the money to attack landowners year after year. >

COMMITTEE STAFF "FACT": The bill does not provide regulatory authority to Federal agencies. It only provides funds to compensate willing sellers, many of whom have been waiting for decades, for compensation from the Federal government. It does not authorize any additional acreage to the Federal estate in Alaska or any other state. It does not provide Federal agencies with any condemnation authority.

ALRA - THE REAL STORY: THE BILL IS DANGEROUS BECAUSE IT PROVIDES MASSIVE AMOUNTS OF STEADY, UNSUPERVISED MONEY FOR BUREAUCRATS TO ABUSE THE AUTHORITY THEY ALREADY POSSESS. It is not necessary to provide any new regulatory authority; Federal agencies already have condemnation powers. The money provided by the bill will certainly result in substantial additional acreage being transferred to the Federal government within existing authorizations which have been unrealistically large for years and which have been unfunded. In reality, true "hardship cases" are rare. Congress must not allow itself to be duped into funding massive land purchases to address the few hardships out there. This bill will create even more hardship cases! Finally, government shouldn't be in the position of buying land just because someone says they are a hardship case. Congress must not abdicate its responsibility to watch where taxpayers money is being spent. Congress must continue to judge project worthiness.

"ALLEGATION": The bill will give immense new regulatory power to the Federal land management agencies. >

COMMITTEE STAFF "FACT": The bill does not give the Federal land management agencies any new authorities. In fact, the bill places additional restrictions on Federal land acquisition in three separate clauses. First, Federal land acquisition only can occur within the exterior boundaries of units established by an Act of Congress and not units established by Federal agencies. Second, any project in excess of $1 million must be approved by Congress. Last, the bill also mandates that two-thirds of the Federal land acquisitions occur in the eastern United States. (* Now raised to $5 million in S 25.)*

ALRA - THE REAL STORY: It is ludicrous to claim that the bill has three additional clauses restricting Federal land acquisition! Clauses one and three apply to less than 8% of the trust funding (the Federal portion of the Title II). Clause two applies to only 18% of the trust funding (all of Title II). The rest of the funding is outside the scope of all three clauses -- and in any event they are not really effective restrictions anyway for the following reasons:

*** First clause -- The exterior boundaries of units established by Congress refer to units such as National Parks, National Monuments, National Forests, National Wild and Scenic Rivers, National Wildlife Refuges etc. These areas typically have thousands of acres of private lands inside the original Congressionally authorized boundaries. In the vast majority of cases Congress never anticipated that ALL the private lands contained therein would be purchased by the Federal government. In recent years the land purchase abuses that have historically occurred inside these unit authorization boundaries have been reduced through congressional oversight of the House Appropriations Committee. Wronged landowners have been able to have their concerns addressed in that forum. This clause gives no protection whatever to landowners -- NO CHANGE.**

*** Second clause -- Congress now approves all land acquisition projects when it passes the national budget each year. This bill eliminates that approval for all projects less than $1 million (now raised to $5 million in S 25) and even that limit applies only to the Title II funds. With the new funds in this bill, Title I and Title III funds can be used for land acquisition, no matter how large an amount, without any approval being necessary.**

*** Third (Last) clause -- The "east" actually is defined as east of the 100th meridian. This area encompasses all the south, east, mid-west, and north-central states! This money will harm private landowners in many rural areas and could devastate isolated communities that are very much like Alaska in character. As such they have many similar problems to Alaska in dealing with the Federal government and in maintaining a vibrant multiple use local economy. These communities are valuable allies to have in supporting Alaska issues. They understand us and they have helped -- on ANWR, on SE Alaska Timber. To violate principle and harm them just so Alaska can tap into the OCS fund is wrong and may not be politically sensible either. Understand that many Alaskans have land in such rural areas in the "lower 48" and they are threatened by this bill.**

"ALLEGATION": Congressman Young (Senator Murkowski) is a supposed friend of private property rights. >

COMMITTEE STAFF "FACT": Congressman Young (Senator Murkowski) is, and will continue, to be a strong supporter and ally of private property rights groups. Year-in and year-out he has obtained a perfect score of 100 from the League of Private Property Voters and other advocates for private land ownership.

ALRA - THE REAL STORY: Senator Murkowski's 100% rating has already ended because of his sponsorship of S 25 and Congressman Young's will too if he signs on. The League of Private Property Voters has sent a letter to all Congressmen and Senators indicating that sponsorship of this bill will be counted AGAINST their record. AND THE BILL IS SO THREATENING AND DANGEROUS THAT, FOR ONLY THE SECOND TIME IN HISTORY, THE LEAGUE WILL DOUBLE COUNT A VOTE FOR THE BILL AGAINST A MEMBER'S PROPERTY RIGHTS PROTECTION RECORD. American Land Rights is the chief sponsor of The League of Private Property Voters along with 600 other organizations and they are one of the many organizations that have issued nationwide alerts against this bill!

2/8/99 LETTER TO CHAIRMAN DON YOUNG FROM MYRON EBELL, NATIONAL POLICY DIRECTOR, FRONTIERS OF FREEDOM, 1100 Wilson Blvd, Suite 1700, Arlington VA 22209, (703) 527-8282

8th February 1999

The Hon. Mr. Don Young Chairman
Committee on Resources
U. S. House of Representatives
Washington, D. C. 20515

Dear Chairman Young:

Thank you for inviting Frontiers of Freedom to comment on your bill, H. R. 4717, which you introduced on 7th October 1998. I hope that our comments may be useful to you and your committee's staff as you prepare a new version for introduction in the 106th Congress. I also hope that you will invite Frontiers of Freedom and other property rights advocacy organizations to testify at any hearings you may hold on your bill.

Staff members for several Members of Congress who co-sponsored H. R. 4717, apparently at the instigation of one of your committee staff members, have complained that we and others in the property rights movement should have made our objections to your bill privately before it was introduced. I learned from

one of these staff members that your bill was circulated in discussion draft form as long ago as June of last year. Undoubtedly, we would have made our objections much earlier if we had known anything about your bill. I have talked to a number of people in the property rights movement, but have yet to find a single person on our side who knew anything about it or was consulted before the bill was introduced. But of course there was no need to consult with opponents of government land acquisition in order to learn whether they would oppose legislation to increase government land acquisition; and so they were not consulted.

As you know, we have worked on the same side of property rights and natural resource production issues for a number of years. I have admired your principled defense of property rights and consistent opposition to more government land acquisitions. That you are now proposing to reverse course and promote socialization of private property on a massive scale is saddening, but that is clearly your decision to make. I respect it and am trying to understand it. On the other hand, I hope you will understand and respect the motives and intentions of those of us who will oppose your bill with as much vigor as we opposed Chairman Morris Udall's similar American Heritage Trust Act a decade ago. From our standpoint, to do anything less would be to betray our belief that private property ownership is the foundation of our liberties and system of limited government.

Our specific comments and recommendations on each title follow below. It should be noted that even if every recommended improvement is made, Frontiers of Freedom will still oppose the bill if it creates a dedicated fund, not subject to congressional appropriation, for the acquisition of private land by any level of government. No added safeguards can, in our view, adequately protect private property ownership from the long-term danger posed by such a fund.

Title I. We believe that OCS revenues should be shared with the States that have oil and gas production off their coasts in the same way that federal revenues from on- shore oil and gas production on federal lands are shared with the States. We urge you to introduce a bill that would do that in a straightforward way and would support your efforts to pass such a bill. Earmarking 27% of OCS revenues for the 34 States defined as coastal States is much less satisfactory because it will result in much less money going to the six OCS States that should be receiving 50% of federal royalties and because the funds distributed will be earmarked for a specific purpose rather than going into the general treasury.

We understand, however, that you have put these provisions together in order to gain enough political support to send at least a little money to OCS States. That is your call, but we doubt whether it will be worth the effort required. We doubt even more whether it will be worth the price of enacting Title II.

As we understand it, it is not the intent of Title I to provide funds to state and local governments for the purpose of buying land. But as there is no provision that prohibits land acquisition, we suspect that that is where much of the money will end up. The experience of the Exxon Valdez settlement is instructive here. While the billion- dollar fund was supposed to be used for environmental restoration and protection, in the end $380 million was used to purchase over 700,000 acres of land in Alaska. We therefore recommend that language be added to prohibit state and local governments from using any Title I funds for acquiring real property. Insofar as money is fungible, this restriction can easily be evaded, but at least it expresses the sense of Congress that government land acquisition does not constitute an environmental benefit or improvement.

Title II. Insofar as you have been a sincere, determined, outspoken, and long-time opponent of government land acquisition, we can only conclude that you have added this title merely in order to gain political support from some of the preservationist pressure groups, such as the Wilderness Society, the National

Wildlife Federation, the Nature Conservancy, the Trust for Public Lands, and Defenders of Wildlife. Undoubtedly, the preservationists will support such a massive increase in government land acquisitions, but we also expect that they will do everything they can to strip out the provisions of Title I.

The introductions of your bill and the similar bill in the Senate have already had the unfortunate effect of causing the Clinton-Gore Administration to propose a similar program, the Lands Legacy Initiative, in their FY 2000 budget. Some defenders of Title II have claimed that its purpose is not really to expand government land acquisition (even though that is what it does) but is being offered defensively in order to prevent some worse piece of legislation, such as the Lands Legacy Initiative, from being passed. It is inevitable, so this reasoning goes, that Congress will vote to buy a lot more land; therefore we should try to pre-empt the proponents with something not quite as bad.

There are three problems with this argument. First, the preservationists did not try to convince Interior Secretary Babbitt to devise a similar program until after your bill was introduced last October. Second, it is not clear to us that the Lands Legacy Initiative is worse than what you are proposing. And third, no piece of legislation is inevitable. The American Heritage Trust Act of the late 1980s, which is very similar to Title II, had over two hundred co-sponsors in the House, yet it failed because of the intense opposition generated throughout rural America by a coalition of trade associations and grassroots membership groups. If you are opposed to the socialization of private property, then you are in an ideal position as the Chairman of the House Resources Committee to stop it.

Our major recommendation for Title II is to remove the words, "without further appropriation", from Section 202, page 18, lines 4-5. If you do that, then Title II becomes merely advice to Congress on how Land and Water Conservation Fund monies should be appropriated, which each Congress in its wisdom may or may not follow. Although there have been many problems with congressional LWCF appropriations over the years, congressional appropriation is still far superior to a dedicated fund. Because acquisitions have had to compete with other budget priorities for funding, Congress has usually appropriated far less money for acquisition than the authorized level of $900 million per year. If the money were deposited automatically into land acquisition accounts, then federal, state, and local agencies would be able to develop long-term strategies to use environmental regulations and other land-use controls to coerce landowners into selling their land. Of course, federal agencies are doing this now, but not very effectively because they cannot count on the acquisition money being appropriated by Congress.

A further advantage of congressional appropriation over a dedicated fund is congressional oversight. Landowners with complaints can take them to their Representatives and be heard. Trying to get a bureaucrat with regulatory power and an acquisition budget to listen is not going to be easy, particularly for small landowners. This is why we see little value in the provision in your bill to require that all federal acquisitions over $1 million be specifically approved by the House and Senate authorizing committees. Big landowners can usually handle their own problems. It is the small landowners that are usually unable to defend themselves against regulatory terrorism. We would therefore suggest specific congressional authorization for all acquisitions.

The willing seller provision in your bill is welcome, but you need to be aware that the protection it affords landowners, and particularly small landowners, is inadequate. Federal land agencies and state and local land use authorities have perfected a variety of coercive techniques for turning unwilling sellers into willing sellers.

If you go ahead with a dedicated trust fund for land acquisition, then we would recommend the following

changes.

First, the LWCF should be amended to fully fund the Payment in Lieu of Taxes Program each year before any funds are spent on buying private land. This will partially compensate for the harm done by government land ownership to local communities by shrinking their tax bases. This harm is generally felt most by local schoolchildren because in most States property taxes provide the largest share of school funding.

Second, the Land and Water Conservation Fund should be amended so that funds can be spent on the four federal land agencies' maintenance and rehabilitation backlog. Only after this multi-billion dollar backlog is cleared up could funds be spent on federal, state, and local land acquisitions.

Third, the bill should be amended to require the approval of the local elected government for any proposed federal, state, or local land acquisitions within its jurisdiction. This would replace some of the accountability of elected officials that you are removing by creating a fund not subject to congressional appropriation.

Fourth, the Tauzin amendment to the California Desert bill should be added. This amendment, which was adopted by a large majority in the 103rd Congress, would prohibit using environmental regulations, such as the Endangered Species Act, when making fair market appraisals of property to be acquired.

Fifth, the LWCF should be amended so that funds can be spent on working with private landowners as an alternative to acquisition. A wide variety of innovative conservation programs that involve co-operation between private landowners and conservation agencies have been developed over the years. The only thing most of them lack is funding.

Sixth, the LWCF should be amended to lower the annual authorized level from $900 million down to the average historic level of actual congressional appropriations. This would be in the $250-300 million range.

Seventh, the bill should be amended to require no net loss of private property. In order to spend LWCF funds the Secretary of the Interior would first have to certify to Congress that the federal government owned no more land this year than it did last year. This raises the problem of how much land the federal government actually owns. The Public Lands Annual is not reliable. Thus we would suggest that before Title II could go into effect, the federal government would have to complete a new and accurate inventory. This inventory could also include an inventory of all lands that Congress has at one time or another authorized for acquisition, but which have never been acquired. Similarly, the first disbursement of funds to the States should be used for inventories of lands owned by States, counties, and municipalities. These inventories would be a very useful starting point in considering just how much of the land in the United States should be owned by government.

Title III. The exemption from the Federal Advisory Committee Act needs to be narrowed in our view. The provision allowing funds to be used for law enforcement and public relations is highly objectionable and will provide the resources for bureaucrat- activists to do a great deal of mischief. We recommend removing this provision. A provision prohibiting using these funds for land acquisition should be added. Although perhaps not strictly necessary, it serves a useful symbolic function.

Thank you for your attention to our concerns. Although it is likely that we will end up on opposite sides of this battle, Frontiers of Freedom looks forward to continuing to work with you on a number of your initiatives that we support, particularly your American Lands Sovereignty Protection Act. Frontiers of Freedom has been a leader in supporting that bill. As you will recall, I testified in favor of it at the first

hearing you held on it in the 104th Congress, and Frontiers of Freedom Chairman Malcolm Wallop spoke at the press conference when you introduced it in the 105th Congress. I find it ironic, but not particularly amusing, that you continue to be concerned about the potential threat to private property ownership in this country posed by the United Nations, but are now proposing in the Conservation and Re-investment Act a much more serious, tangible, and immediate threat to private property ownership in this country. Given your long and distinguished record as a defender of property rights, we still hope that you will reconsider your support for this unfortunate relic from the era of command-and-control environmentalism.

Yours sincerely,

Myron Ebell Policy Director

Copies to other Members of Congress and other interested parties.

FEDS PRIVATE LAND PURCHASE TRUST: A BAD IDEA by RICK KENYON

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An ancient by the name of Agur said there were four things that were never satisfied -- Hell, the barren womb, a barren desert and fire. Today we have to add a fifth -- the bureaucrat. Over 66 percent of the state of Alaska (more than 230 million acres) is already in Federal ownership. 103 million is in state ownership. Private non-Native corporation land is less than three-tenths of one percent. Yet some are not satisfied.

According to the National Parks and Conservation Association, there are more than 1 million acres of private lands within the boundaries of the national park system that should be acquired for public use. Representative Don Young and Senator Frank Murkowski are making plans to give the federal land managers all the money they need to buy up that million acres and more, and with few strings attached.

Rep. Young, chairman of the House Resources Committee, introduced his version of what some call the "Billion Dollar Trust Fund" -- HR701. If passed, many fear this off-budget land acquisition entitlement will ultimately grow to become a $1 billion per year slush fund for federal, state and local land agencies. It supports the concept President Clinton and VP Gore are proposing with their "lands legacy initiative." Sen. Frank Murkowski along with Sen. Mary Landrieu, D-LA., and others, have introduced a companion bill, S25.

"Once the Trust Fund is signed into law, no landowner will be safe," said Chuck Cushman, executive director of the American Land Rights Association. "Park Service, Forest Service, Fish and Wildlife Service and BLM land agents will become tyrants far exceeding even the aggressive Carter Administration."

Murkowski and Young have a long record of being the friends of landowners and users of the Federal lands. They helped draft the Alaska National Interest Lands Conservation Act (ANILCA) which, along with setting up the massive new federal parks and preserves, incorporated many "protections" for the Alaskan way of life. Then, the delegation held hearings when the federal land managers twisted and sometimes just plain ignored the protection provisions.

Witness the most recent Park Service action at Denali. Superintendent Steve Martin arbitrarily closed 2

million acres of the "old park" to access by snow machines -- an area where, by his own admission, "snowmachines have rarely been used..." Sen. Murkowski immediately responded: "ANILCA guarantees Alaskans the right of reasonable access. I am distressed by the continuing efforts of this Administration to erode that right. We've seen it in Glacier Bay, and now we are seeing it in Denali. The Park Service's action establishes a dangerous precedent -- an erosion of the rights guaranteed under ANILCA. The issue will now move to the courts and I'm hopeful that the court will overturn the Park Service."

An obvious question for the senator: Do you think these types of actions that you rightfully call an erosion of the rights will become less frequent when the federal land managers are handed a bag of money marked, "This money is for purchasing inholdings in federal units"?

I think not.

"This money," the senator tells us, "is not earmarked for a federal land grab. I believe the federal government already owns too much land."

I respectfully submit this is double-speak.

Murkowski said many inholders "have been waiting for decades to receive compensation from the federal government for their property. In many instances those landowners must suffer restrictions on access to and use of their lands while they wait endlessly for the funds to compensate them for their lands."

And that's just the point. These landowners have become "willing sellers" because of restrictions on access to and use of their lands. Some say the willing seller provisions will not survive the legislative process, and that a final bill will include condemnation. Are we to be heartened to know we won't have to wait long to be compensated for the land we are no longer permitted to own?

During the early years of the Wrangell-St. Elias Park (and other Alaskan park units), the Park Service was busy running the miners out. During the debate of the Alaska lands act, Alaskans were told that mining was a "protected" activity. Only a few years after the compromise passage of ANILCA, federal managers started to undermine this compromise by maneuvering to end mining in the parks. The rules started changing. Even folks with small recreational claims suddenly found they had not met the requirement of burdensome new rules. Of course not, they had never been told about the rule changes.

Finally, in frustration, they gave up. They relinquished their claims to the federal government. Although park managers will tell you there is still mining in the parks, everyone knows it's a joke. The miners are no longer mining -- they are running parking lots for tourists.

Now it's the inholders' turn. Groups like the National Parks and Conservation Association and the huge environmentalist land trusts are drooling at the thought of a permanent pipeline of money earmarked for private land acquisition. Just as the land managers in their hearts disagreed with Congress that mining be allowed to remain in Alaska parks, now those behind this latest move apparently think that private property owners themselves are something that is unacceptable.

My wife and I have lived here in the Alaska bush for over twenty years now.

When we built our log home this was not a national park. If any of these massive land acquisition trust funds becomes law, the best we can hope for is increased harassment and burdensome new rules. If, as some

believe, the final legislation contains language that allows condemnation, then our lifestyle is over.

Sen. Murkowski, Rep. Young, I don't know what to say. You have been our friends and allies, and without your support many of us would have been forced off our land long ago. Some say the siren song of distributing vast sums of money has caused you to cast aside your principles. They say you are willing to sacrifice inholders, our communities, lifestyles and culture. I don't know. I can only wonder, as the Apostle Paul did about the church at Corinth when the believers wandered from the faith: Who has bewitched you?

Rick Kenyon is the editor of the Wrangell-St. Elias News. This column is adapted from the March/April 1999 issue.

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