

May 5, 1999

The Honorable B Bruce F. Vento
House of Representatives
2304 Rayburn House Office Building
Washington, DC 20515-2304

Dear Mr. Vento:

Thank you for your letters of March 24th and April 28th regarding my testimony before the House Resources Committee on the March 18th hearing of the American Land Sovereignty Protection Act, H.R. 883. In my opinion the important issue here is protection of Americans' rights of democratic process. I sought to emphasize the dangers I see in Congress' waiving of its role and responsibilities over matters which fundamentally affect citizens of the United States and ceding that role and its associated powers to a global organization in which affected Americans have no representation.

As I understand it, the proposed Act does nothing more than affirm Congressional role in the management of our public lands, a role mandated to it by the Constitution, under Article IV, Section 3, which states: "The Congress shall have Power to dispose, of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States." I believe that is a clearly worded duty which Congress is bound by the Constitution to uphold.

Your letter raises several questions concerning my testimony, each of which I have addressed below,

I. Please explain the simultaneous decision to *continue* our active participation in the World Heritage Convention and the U.S. Man and the Biosphere Program [after your support for the successful U.S. withdrawal from UNESCO], both of which are coordinated at the international level by UNESCO.

The United States' Permanent Representative to the United Nations oversees U.S. participation in many United Nations' programs and organizations, including aspects of U.S. participation in UNESCO. The World Heritage and Man and the Biosphere programs, however, were not among them when I held that job.

As you know, the Department of the Interior has primary responsibility for the World Heritage and the Biosphere programs. The Department of the Interior, along with a federal interagency panel controls all aspects of these programs. No member of Congress is included on this panel. Neither was a United States' U.N. Ambassador when I held that position. The Code of Federal Regulations July 21, 1980 public notice of proposed U.S. World Heritage Nominations for 1981 states U.S. law at the time me I was our UN Ambassador:

"In the United States, the Secretary of the Interior is charged with implementing the provisions of the Convention, including preparation of US. nominations. Recommendations on the proposed nominations are made to the Secretary by an interagency panel including members from the Office of the Assistant Secretary for Fish and Wildlife and Parks, the Heritage Conservation and Recreation Service, the National Park Service, and the U.S. Fish and Wildlife Service within the Department of the Interior; the President's Council an Environmental Quality; the Advisory Council an Historic Preservation, and the Department of State." (Emphasis added).⁽¹⁾

I was never included on the panel as the Department of State Representative. I was never invited to I participate in any decisions concerning these programs.

I raised the issue of the U.S, withdrawal from UNESCO to make a point: the UNESCO of the 1980's demonstrates quite well both an example of an incompetent and corrupt international organization and the nearly insurmountable obstacles of trying to reform it and hold it accountable. During my tenure as U.S. Ambassador, I sought to limit the proliferation and scope of U.N. based of international organizations which were accountable to no responsible, democratically elected government. This discussion serves to reinforce the point I was trying to make during my testimony, namely, that Congress should take an active role in the oversight of programs which impact private citizens

in this country.

II. [A]s you know, 7 of the 20 World Heritage Sites in the United States were listed as such during your tenure as our Ambassador to the U.N. In your capacity as U.N. Ambassador, did you oppose these nominations based on the fact that Congress had not specifically authorized these listings? At any point in your tenure, did you attempt to have any existing designations withdrawn on the game basis?

I refer you to my answer above. The Department of the Interior is charged with implementing the provisions of this program, not the United States' UN Representative's office, I had no role and I was not aware of the details of these programs. Now, however, that this issue has ripened, I believe it is time to restore Congress' proper role in this matter.

III. "Your prepared testimony ... includes the statement, 'International Committees -whatever the substance of their decisions - do not represent the American people and cannot be held accountable by them,' (emphasis added). Is it accurate to conclude from this statement that you believe specific Congressional authorization should be required for U.S. participation in any program which involves an 'international committee?'"

Obviously, these committees do not represent the American people. That is not their function. I want to be absolutely clear on this point. Only our representatives on those committees represent Americans. Obviously, the Cuban or Libyan delegates to these committees do not represent the American people and, in fact, often oppose American interests, regardless of the issue. Neither do the New Zealand -- to take a country at random - or Brazil. The United States' Congress, on the other hand, is elected by and does, in fact, represent the American people. U.N. based committees, unlike Congress, are not accountable to the American people because they have not been elected by or chosen in any way by the American people. They do not represent and are not concerned with U.S. national interests nor the interests of U.S. citizens.

In this democracy, the citizens grant powers to our elected leaders through our votes from the local, and state levels up to the Congress and the Presidency. We give *them* the power to declare our lands national parks and the right to enact the laws that restrict our use of our properties. We give our duly elected leaders the authority to select the judges who will interpret those laws. Our elected leaders, in turn, respond to our wishes because, just as we have granted them power, so may we take it from them in the next election. Representation and accountability are the foundation of the freedoms we cherish. Having fought and won elections yourself, you know this principle well.

In U.N. organizations, there is no accountability, UN bureaucrats are far removed from the American voters. Many of the States Parties in the World Heritage Treaty are not democracies. Some come from countries that do not allow the ownership of private property. The World Heritage and Man and the Biosphere committees make decisions affecting the land and lives of Americans. Some of these decisions are made by representatives chosen by governments not based on democratic representation, certainly not on the representation of Americans. What recourse does an American voter have when UN bureaucrats from Cuba or Iraq or Libya (all of which are parties to this Treaty) have made a decision that unjustly damages his or her or property rights that lie near a national park? When the World Heritage committee's meddling has needlessly encumbered a private United States citizen's land and caused his or her property values to fail, that citizen's appeals to these committee (if that is even possible) will fall on deaf ears. As for your question "Is it accurate to conclude from this statement that you believe specific Congressional authorization should be required for U.S. participation *in any* program which involves an 'international committee?,'" my answer is, in any U.N. based committee which makes decisions that importantly affect American citizens. Speaking to the issue at hand, which is the requirement of congressional authorization of World Heritage and Biosphere site designations, I definitely believe congressional authorization should be required. Congressional role should be protected, I believe, should be required, in any process, any time the Constitution specifically places a duty on Congress to act. The question presented here is specific. The Constitution mandates congressional responsibility over public land management. The World Heritage and Biosphere programs directly impact the management of public and private lands in the United States. Congress should be involved.

The Constitution grants and requires Congress' broad control over the management of the public lands. The Executive branch, through the Department of the Interior and in conjunction with the World Heritage and Man and the Biosphere programs (the "international committees" created by this Convention) should not be allowed to exercise Congress'

constitutional authority.

IV. "Should Congressional authorization be required for any international agreements/contracts which allow use of our national resources and public lands, such as mining or timber harvesting? If it is the case that your support for requiring Congressional authorization is limited only to those areas included in H.R. 883, please explain the specific characteristics of 'international committees' dealing with conservation which makes them particularly threatening?"

First of all, as you know, any U.N. based agreements or contracts which allow use of our natural resources and public lands require various forms of authorization from our elected officials. In this particular case, the authorization must come from Congress. The Convention itself requires that "the inclusion of a property in the World Heritage List requires the consent of the State governed." [Article II, Section 3) The State in question is the United States and its consent requires the consent of the people through their duly elected representatives in accordance with the Constitution. That means Congress, the body delegated the authority over land management by the Constitution. The "American Land Sovereignty Protection Act" is consistent with both U.S. and international law.

In the second part of your question, you ask what are the specific characteristics of "international committees' dealing with conservation which makes them particularly threatening?" My answer is, those committees which affect substantial interests of U.S. citizens. If American citizens have an interest in the conservation of a particular area, that decision should be made by Congress, the body delegated responsibility by the Constitution for making these decisions in full view of the American public. And if each decision requires consideration of costs and benefits to the property rights of individual voters affected, so be it. UNESCO committees are not competent to address the complex private property and public interest issues presented here. They have no interest in how their actions affect private U.S. citizens. I believe Congress should not abdicate its responsibilities for land management to international groups whose members have no concern for protecting individual property rights and American interests.

Sincerely,

/s

Jeane J. Kirkpatrick

P.S. I am enclosing my Disclosure Requirement

cc: Kurt Christensen, Staff Member, House Committee on Resources and Members of the Committee

1. "Proposed U.S. World Heritage Nominations for 1981, Public Notice," 45 FR 49717, July 21, 1990. You will find the same language in each annual notice.