

Committee on Resources

Subcommittee on National Parks & Public Lands

Witness Statement

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Please make this testimony part of the official record on HR 4721. We would like this testimony posted on the web, as well.

Thank you.

Members of the Committee on Resources
Members of the Subcommittee on National Parks & Public Lands
U.S. House of Representatives
1324 Longworth House Office Building
Washington, D. C. 20515-6201

Subject: Opposition to H.R. 4721, federal buy-out of lands in Washington County, Utah

Dear Committee Members:

I write on behalf of the Western Land Exchange Project in strong opposition to HR 4721, which would effect an inflated "down payment" on private lands within the desert tortoise reserve in Washington County. This bill is ultimately intended to hand over tens of millions of dollars to James Doyle, a land speculator operating as Environmental Land Technologies, who owns land within the reserve.

The Western Land Exchange Project is a non-profit organization that monitors federal land exchanges and is working for long-term, substantive reform in the exchange process. We have had grave concerns about land exchanges and other transactions within Washington County, Utah that appear to yield huge profits to private landowners while costing the American public millions of dollars. This bill continues in that tradition.

In the early 1990s, after the desert tortoise had been declared a threatened species, planning began for the preservation of critical habitat in the Washington County Habitat Conservation Area (HCA), and the BLM began a series of land exchanges to acquire private inholdings within the HCA. Private lands within the HCA were valued under established appraisal conventions (the Uniform Standards for Federal Land Acquisition and the Uniform Appraisal Standards for Federal Land Acquisition) that are codified in regulations for land exchanges and long accepted as the standards for these transactions.

Some Washington County landowners were not satisfied with these standards, however, because restrictions on development within the HCA lowered the market value of their lands. Congressman Hansen

accommodated this handful of landowners by placing a special provision in the Omnibus Parks Bill of 1996 (P.L.104-333). Section 309(f) of the bill mandated that private lands within Washington County acquired through federal trade be appraised "without regard to the presence of a species listed as threatened or endangered." This is entirely counter to the established standards of land appraisal, and has created a huge windfall for a select group of landowners.

As explained in the attached news articles from the Deseret News, this provision has been applied to every land transaction in Washington County since the passage of the 1996 Omnibus Parks bill. The result is that several windfall millionaires have been created in that area at great cost to the American public.

Jim Doyle, the beneficiary of HR 4721, has already completed 5 land exchanges in Washington County, trading to the government 383 acres valued at \$5.6 million. He now seeks as much as \$50 million dollars for his remaining 1,550 acres in the desert tortoise preserve. Mr. Doyle claims to have been victimized by the federal government because the presence of the desert tortoise has reduced the development potential (and thus the value) of his land.

The bill states in error that Mr. Doyle bought the land in 1983; in truth, he began leasing it from the state that year and bought it from the State in 1990. As explained in the attached Western Land Exchange Project case study (from our report, "Commons or Commodity? The Dilemma of Federal Land Exchanges"), Mr. Doyle was the beneficiary of a preferential sale by the State of Utah that was later declared illegal.

Mr. Doyle has also engaged in a series of dubious land deals, shell games, and legal disputes that call into question his claim that he is a "victim" of federal policy. The desert tortoise was first listed as a threatened species in 1980; it received emergency endangered listing in August of 1989, and final listing as threatened in April 1990.

Mr. Doyle did not make a down payment to the State on his land purchase until June 1990, well after the tortoise was listed. The listing of the Mojave population of the desert tortoise had been anticipated for years-it did not occur in a vacuum or without ample warning. For Mr. Doyle to portray himself as an innocent victim of federal regulation is grossly misleading. It seems clear that by the time he made his first payment to the State, he had long understood the potential impact the tortoise's listing would have on that land.

Mr. Doyle originally bought the property from the State for about \$330 an acre. Because the original preferential sale was later declared illegal, he reached a settlement with the State requiring that he pay the State a percentage of his proceeds from selling or exchanging the land. It was estimated that his final purchase price would end up at about \$6 million, or \$2,500 per acre.

HR 4721 proposes to make an initial payment of \$15 million, or about \$9,600 per acre-almost four times his purchase price.

The ultimate payment to Mr. Doyle would consist of any balance beyond \$15 million "owed" him based on the determination of the land value and costs. If Mr. Doyle's claims regarding the value of his land are upheld, he could eventually receive a total of up to \$50 million. This means that not only would he make a huge windfall profit from the passage of HR 4721, but the State of Utah also stands to benefit mightily by the inflated federal purchase price-again, at huge cost to American taxpayers.

Because of his trouble with the State of Utah, Mr. Doyle was not even able to present clear title to the land until 1997, so it was not until that year that the BLM began negotiating with him over the land value. Since

then, disagreement over the value has delayed the purchase. Doyle claims the value should be based on the potential for maximum development and the presence of adequate infrastructure-neither of which exists. He is also threatening to sue Washington County for "inverse takings" (see attached BLM memo).

Representative Hansen's bill orders that Mr. Doyle be paid "just compensation" for the land based on its value at the time it vests in the United States (upon the bill's passage). Doyle would also receive compensation for the costs and expenses of having held the property since February 1996, plus other costs and attorney fees.

HR 4721 is just the latest in a long series of dubious land deals and taxpayer rip-offs to have come out of St. George and Washington County, Utah. The Interior Inspector General is currently investigating land exchanges in Washington County and has already found strong evidence that the appraisal process for land exchanges in that area has been flagrantly manipulated by private landowners like Mr. Doyle.

Mr. Hansen, the bill's sponsor, has gained passage of one piece of legislation after another to aid speculators and the State of Utah at the expense of the American public.

We believe that this bill amounts to a scandalous bilking of American taxpayers for the benefit of one landowner and the State of Utah. Not only is the public being asked to pay a hugely inflated price for Mr. Doyle's land, but in doing so we would be rewarding him for his sharp land deals, cynical manipulation of the system, and posturing over "inverse takings."

There are far better ways to spend taxpayers' money than to subsidize and encourage land speculators like Mr. Doyle.

We strongly urge the Committee to reject this bill.

Sincerely,

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