

eco•logic Special Report

Federal Land Use Control Through Ecosystem Management

By Henry Lamb

Private ownership of land

The hope of land ownership is the compelling force that brought people to America from the oppression of governments around the world. The right to own property is one of those "inalienable rights" described by Jefferson in the Declaration of Independence. The right to own land is a "natural right" demonstrated throughout nature. The term "own" land must be defined as the power to control the use of land. Throughout nature, every member of every species "owns" land. That is, every species in the universe controls the use of the space, and the resources contained therein, it requires to sustain its life. It controls that space until it is usurped by another. Such is the law of nature.

As early as 1651, Thomas Hobbes decried the plight of man living under the theory of natural law as "solitary, poore, nasty, brutish, and short." His solution: "The control of power must be lodged in a single person, and no individual can set their own private judgments of right and wrong in opposition to the sovereign's commands."¹ The sovereign, according to Hobbes, with absolute authority and power, could delegate land and resource use for the benefit of all.

John Locke countered the Hobbesian thought in 1690 with the idea that unowned things (resources) are not owned in common under the authority of the sovereign, but that ownership of any unowned thing belongs to its first possessor.² Locke says: "...every man has a property in his own person; this nobody has any right to but himself. The labour of his body and the work of his hands we may say are properly his."³

Man has no less natural right to space, and the resources contained therein, than any other species. Man, however, created a mechanism to minimize the constant conflict among humans for the use of land. The mechanism that evolved is called government. With few exceptions in all of history, government became the

usurper, and granted land use to favored citizens and denied land use to others, which Hobbes recognized and described in *Leviathan*. It was just such a system of government-granted favors and denials that motivated oppressed people to challenge the vast oceans and untamed wilderness of the new continent, in hopes of securing land under the Lockean concept of "ownership by first possession."

There can be no question that the founding fathers held private ownership of land to be a natural right co-equal to the right of free speech, and the right to worship freely. Nor can there be any question that the first purpose of the government created by the founding fathers was to protect those "inalienable rights," including the right of individuals to own, and control the use of, private property, whether acquired by "first possession" or by contract from first possessors.

The Northwest Ordinance of 1785 set the procedure for distributing lands acquired by the federal government to private ownership. A minimum price of \$1 per acre was stipulated. By 1862, not enough land had been transferred to private ownership, so Congress implemented the Homestead Act, which gave 160 acres to anyone who would live on the land for five years. The Act also provided for the purchase of land for \$1.25 per acre after a six month residency.

The Timber Culture Act of 1873 and the Desert Land Law of 1877, both provided for free transfer of government land to private ownership. For the first 150 years, the objective of American land policy clearly was to get government land into private ownership. Progressive forces, as early as 1871, urged Congress to set aside forest land for protection from "robber barons." Twenty years later, Congress obliged with the Forest Reserve Act of 1891. By 1908, Theodore Roosevelt, and his natural resources advisor, Gifford Pinchot, extended forest protection to more than 132,000,000 acres, 88% of today's reserves.⁴

The distribution of government land to private ownership ended with the Taylor Grazing Act of 1934. The official policy of "public domain" lands was set in concrete in 1976 with the Federal Land Policy and Management Act. Throughout much of this century, and particularly since 1970, federal land policy has shifted a full 180 degrees. Originally, the policy was to promote private land ownership to the extent of giving land to individuals. Then the policy shifted to locking up the remaining federal lands for the "public domain." Then the policy shifted to acquiring more land to

expand the "public domain." And now, the policy is rapidly shifting toward absolute government control of all lands, both public and private.

Driving Public Policy

American land policy has been driven by a parade of identifiable people who see free enterprise and private property rights as an obstacle to be overcome rather than as a value to be protected. The idea of "conservation" had emerged by 1900, when both political parties endorsed the concept. The concept, though, was not clearly defined. To John Muir, who founded the Sierra Club in 1892, conservation meant preservation. To Gifford Pinchot, conservation meant federally regulated use of resources on public land. The battle between Muir's preservation ideas and Pinchot's federally regulated conservation ideas came to a head over the Hetch Hetchy Dam. Pinchot won in 1909, and the dam was built.

For the next fifty years, the federal government pursued a land policy of federally regulated use of resources on public lands. The Sierra Club led the growth of the preservation movement which became the modern environmental movement, dominated by three international NGOs (non-governmental organizations): the International Union for the Conservation of Nature (IUCN); the World Wide Fund for Nature (WWF); and the World Resources Institute (WRI).

Robert Marshall, Aldo Leopold, and Benton Mackaye founded The Wilderness Society. Mackaye was a member of the Socialist Party that supported Eugene V. Debs. Marshall joined the Socialist Party of Norman Thomas which was more radical than the Debs group.⁵ In 1933, Robert Marshall published *The People's Forests*, which advocated the confiscation of privately owned forest land.

Another dam project in Echo Park in Western Colorado and Eastern Utah unified a growing number of preservation groups in the 1950s. The Wildlife Management Institute, the National Audubon Society, and the Izaak Walton League joined the Sierra Club and the Wilderness Society to defeat the construction project. Howard Zahniser of the Wilderness Society was the primary lobbyist in Washington.

Howard Zahniser was also the driving force behind the Wilderness Act of 1964.⁶ The Act set aside nine million acres to be forever preserved as wilderness. Since then, more than 100 million acres have been added to the wilderness inventory. The preservationists

gained more strength with the 1970 "Earth Day" organized by Senator Gaylord Nelson (D-WI), who left the Senate to become an advisor to The Wilderness Society.

The preservation movement came together to produce a series of documents, funded by the Rockefeller Brothers Fund, which set forth the preservationists' agenda. The first, *The Use of Land: A Citizen's Policy Guide to Urban Growth*, published in 1972, was edited by William K. Reilly, who served as EPA Administrator under George Bush. The document begins with a quote from Aldo Leopold:

"It is time to change the view that land is little more than a commodity to be exploited and traded. We need a land ethic that regards land as a resource which, improperly used, can have the same ill effects as the pollution of air and water, and which therefore warrants similar protection."⁷

The second document, entitled *The Unfinished Agenda*, was published in 1977 to "enlist the collective expertise of sixty-three leading environmentalists...to identify and describe the most critical problems..."⁸ The final document in the series, *Blueprint for the Environment*, was 1500 pages containing 730 specific recommendations delivered to President-elect, George Bush on November 30, 1988. The document was prepared by:

The Wilderness Society, Sierra Club, National Audubon Society, The Nature Conservancy, National Wildlife Federation, Izaak Walton League, Friends of the Earth, Zero Population Growth, Environmental Defense Fund, and other NGOs, all affiliated with one or more of the three international NGOs.

The 1972 document was accompanied by a five-year effort in Congress to adopt the "Land Use Policy and Planning Assistance Act." Led by Morris Udall, and supported by NGOs, the effort to achieve federal land use control was defeated primarily through the efforts of David A. Witts, attorney for the Texas and Southwest Cattle Raisers Association.⁹

The proponents of federal land use control didn't abandon their dream. They simply fell back to regroup and plan another strategy to achieve absolute control of private property in America.

Administrative expansion of the Clean Water Act of 1972, and the Endangered Species Act of 1973 have served as effective federal

land use control devices. Both land use policies came about as the result of conforming American laws to meet the requirements of UN treaties. Ocie Mills, John Poszgai and Bill Ellen, all served prison sentences for minor infringements of wetland policy, to serve as examples to other land owners who dared to use their own property which the federal government declared to be "waters of the United States." Thousands of other land owners have been prevented from using their own land because a usurping government invoked the federal land use control device - wetlands.

The Endangered Species Act has had a similar chilling effect on the use of both federal and private lands. The spotted owl has never been in danger of extinction.¹⁰ Andy Stahl, of the Sierra Legal Defense Fund, told a conference at the University of Oregon, in 1988, that the spotted owl was just a "surrogate" to stop timber harvests until "Congress [has] a chance to provide specific statutory protection for those forests."¹¹ The National Audubon Society, the Wilderness Society and other NGOs initiated litigation that has prevented any use of millions of acres of prime timberland.

Stephen McCabe, chairman of a California NGO, opposed the expansion of Quail Hollow quarry. To block the company's expansion, he has proposed that the Mount Hermon June beetle be listed as an endangered species. He readily admits: "My goal is to protect the habitat...The best route at present is to try to get individual species listed and by doing that get protection for the habitat."¹²

In Orange County California, the Natural Resources Defense Council used the Gnatcatcher to stop a highway project and other development on 400,000 acres until Judge Stanley Sporkin ruled that the Gnatcatcher had to be removed from the endangered species list because it was not endangered.¹³ Nevertheless, continued negotiations between environmental NGOs and local government resulted in a "Multiple Species Conservation Plan" that locks up 172,000 acres "of meaningful open space."¹⁴

The hind legs on Tipton Kangaroo rats are one one-hundredth of an inch longer than the hind legs of a Herman's Kangaroo rat. The Tipton is listed as "endangered;" the Hermon is not. Taung Ming-Lin had never heard of either when he bought a 720 acre farm near Bakersfield, California. Mary Mason knew both species well. When she saw a tractor discing land owned by Ming-Lin, but used by the Tipton rat, she brought down a covey of 20 state and federal regulators on the Ming-Lin farm, took the tractor and disc into custody, and threatened Ming-Lin with a \$300,000 fine -

whereupon he had a stroke.¹⁵

The federal government, driven by NGOs, has found inventive ways to control the use of private land and private property - jailing land owners and suing tractors. The Ecosystem Management Plan, adopted by federal government agencies, eliminates the need to identify wetland or endangered species as an excuse to control land use. It will empower NGO-spawned federal bureaucrats to control every square inch of land in America.

The objective

The ultimate objective of the NGOs is to implement the policies of the United Nations as published in the Convention on Biological Diversity, the *Global Biodiversity Assessment*, *Agenda 21*, and other treaties and documents. The objective is so bizarre, so foreign to the ideas of Jefferson and Madison, the ideas on which America was founded, that free market property rights advocates have discounted their ideas as the lunatic fringe of the environmental movement.

The preservationist objective is only suggested by Aldo Leopold in his 1949 *Sand County Almanac*. He says: "We are only fellow-voyagers with other creatures in the odyssey of evolution." An awareness of which "changes the role of Homo sapiens from conqueror of the land-community to plain member and citizen of it."¹⁶

Dave Foreman, father of the Wildlands Project, sheds more light on the ultimate objective of the preservationists:

"We should demand that roads be closed and clearcuts rehabilitated, that dams be torn down, that wolves, grizzlies, cougars, river otters, bison, elk, pronghorn, bighorn sheep, caribou and other extirpated species be reintroduced to their native habitats. We must envision and propose the restoration of biological wildernesses of several million acres in all of America's ecosystems, with corridors between them for the transmission of genetic variability. Wilderness is the arena for evolution, and there must be enough of it for natural forces to have free rein."¹⁷

He also says:

"...it boils down to the question of whether private property (and those dollars or jobs the property represents) or natural ecosystems are more valuable. Although most people in this country (myself

included) respect the concept of private property, life - the biological diversity of this planet - is far more important."¹⁸

Foreman's dream of massive wilderness in America is not a private fantasy. Bill Devall says, in *Deep Ecology*, "The entire continent of Antarctica should be zoned as wilderness. In the United States, tens of millions of acres should be zoned wilderness with rigid restrictions on industrial developments."¹⁹

David Brower, former director of the Sierra Club and founder of Friends of the Earth, says:

"Man needs an Earth International Park, to protect on this planet what he has not destroyed and what need not be destroyed. In this action, all nations could unite against the one real enemy - Rampant Technology."²⁰

Philosopher, John Phillips says:

"The biosphere as a whole should be zoned, in order to protect it from the human impact. We must strictly confine the Urban-Industrial Zone, and the Production Zone (agriculture, grazing, fishing), enlarge the Compromise Zone, and drastically expand the Protection Zone, i.e. wilderness, wild rivers. Great expanses of seacoast and estuaries must be included in the Protection Zone, along with forests, prairies, and various habitat types. We must learn that the multiple-use Compromise Zone is no substitute, with its mining, lumbering, grazing, and recreation in the national forests, for the scientific, aesthetic, and genetic pool values of the Protection Zone. Such zoning, if carried out in time, may be the only way to limit the destructive impact of our technocratic industrial-agri-business complex on earth."²¹

Gary Snyder, Pulitzer Prize winning poet, says:

"If man is to remain on earth he must transform the five-millennia-long urbanizing civilization tradition into a new ecologically-sensitive harmony-oriented wild-minded scientific/spiritual culture...nothing short of total transformation will do much good."²²

The wilderness objective is promoted throughout the literature of the environmental movement. Dave Foreman, one of the more articulate spokesmen for the movement, has substantially advanced his dream.

Until 1980, Foreman was a lobbyist for The Wilderness Society. Unhappy with the progress being made, he resigned and created Earth First! He published *Ecodefense: a Field Guide to Monkeywrenching*, and *Confessions of an Eco-Warrior*. His next venture was the creation of the Cenozoic Society, which publishes Wild Earth. In an 88-page special issue, entitled "The Wildlands Project", published with funds from the Hati Foundation for Deep Ecology, Foreman distributed 75,000 copies of his vision for land use in America. The mission of The Wildlands Project is:

"To stem the disappearance of wildlife and wilderness we must allow the recovery of whole ecosystems and landscapes in every region of North America. Allowing these systems to recover requires a long-term master plan. Our vision is simple: we live for the day when Grizzlies in Chihuahua have an unbroken connection to Grizzlies in Alaska; when Gray Wolf populations are continuous from New Mexico to Greenland; when vast unbroken forests and flowing plains again thrive and support pre-Columbian populations of plants and animals; when humans dwell with respect, harmony, and affection for the land; when we come to live no longer as strangers and aliens on this continent."²³

The plan itself was devised by Reed F. Noss, who holds a Ph.D. in wildlife ecology from the University of Florida, who is a research scientist at the University of Idaho, a research associate at Stanford University, and is a member of the Board of Directors of The Wildlands Project. Noss says:

"Most conservation biologists agree that compatible human uses of the landscape must be considered...However, the native ecosystem and the collective needs of non-human species must take precedence over the needs and desires of humans."²⁴

The plan calls for a biological survey to identify and catalog plant and animal populations. It calls for the designation of "at least 50% of the land area" as "core reserves" surrounded by an "inner buffer zone" and surrounded again by an "outer buffer zone," almost exactly like that described by John Phillips above. The reserve areas are to be connected by corridors that could be several hundred miles wide. Noss says: "Eventually, a wilderness network would dominate a region and thus would itself constitute the matrix, with human habitations being the islands." He says that specific actions to be taken include:

"...land and mineral rights acquisitions, Wilderness or other reserve designations on public lands, road closures, cancellation of grazing

leases and timber sales, tree planting, dam removals, stream dechannelization, and other restoration projects. In many cases, private lands will need to be acquired and added to national forests and other public lands in order to serve as effective buffers."

Noss acknowledges that his work was prepared under contract with the National Audubon Society and The Nature Conservancy.²⁵

The *Global Biodiversity Assessment*, an 1140-page document published by Cambridge University Press for the United Nations Environment Program (UNEP), for those concerned with the implementation of the Convention on Biological Diversity, explicitly identifies the "Wildlands Project," as central to the preservation of biodiversity required by the Convention.²⁶

John Davis, Editor of Wild Earth, and a Director of The Wildlands Project, says wilderness advocates must face squarely such problems as "private property, local versus state or federal control, and appropriate human roles in natural areas." He says people would not be required to relocate if they would "...refrain from any use of motors, guns, or cows. The problem here is not so much people as it is their damnable technologies."

To achieve this massive objective, Michael E. Soule, a member of The Wildlands Project Board, and a teacher in the Environmental Studies Department at the University of California, preaches a policy of patience. Rather than take a rancher's land, he suggests getting the rancher involved in a watershed council, or similar local group and "teach" him the tax benefits of donating his land to a conservancy after his death. He says:

"...we must hurry to plan the system and the strategy. Some protective actions cannot wait. Some pieces and parts can wait as long as the plan is well conceived and is being implemented systematically. The goal should be staying the course, not setting a speed record."

The plan: Ecosystem Management

After the flop of the FLUP (Federal Land Use Planning) Acts in the mid 1970s, NGOs realized that seduction might be more effective than rape. A new strategy was devised: go to the U.N. for help, and infiltrate the government. The Carter administration provided the opportunity for implementation of both initiatives.

The President's Council on Environmental Quality sponsored a "Forum on Preservation of Farmland," which determined that:

"The greatest need is to create a federal policy. This can be done by various tax and regulatory schemes. Another way is for the community to become part-owner in the land. A third way, well tested in Europe, is for the community to intervene in the actual market of land buying and selling."²⁷

Stanley D. Shift, head of the U.S. Delegation to the U.N. Habitat Conference, participated in the Forum, and in the U.N. Habitat Conference. The Conference report begins:

"Private land ownership is a principal instrument of accumulating wealth and therefore contributes to social injustice. Public control of land is therefore indispensable."

The Conference recommended:

"Public ownership of land is justified in favor of the common good, rather than to protect the interests of the already privileged."²⁸ (See *eco•logic*, January/February, 1997 for a complete report of the UN Conference on Human Settlements in Vancouver, BC, 1976.)

The Carter administration welcomed the environmental seducers into policy-making positions. In the Department of Interior, Under Secretary, Barbara Heller, and water specialist, Joe Browder came from Ralph Nader's Environmental Policy Center. Assistant Secretary, Cynthia Wilson came from the National Audubon Society. Assistant Secretary, Robert Herbat came from the Izaak Walton League. Attorney James Moorman came from the Sierra Club, Solicitor John Leshey, from the Natural Resources Defense Council.²⁹

The Reagan administration cleaned house and replaced the Carter policy-makers with people such as James Watt from Mountain States Legal Foundation. The environmental community organized a national campaign against Watt, even before his confirmation, and eventually forced his resignation.

The ground lost by NGOs to the Reagan administration was recovered in part during the Bush years, most notably through the appointment of William Reilly as EPA administrator, who came directly from his position as head of the World Wildlife Fund. (The man he replaced, Russell Train, became Chairman of the World

Wildlife Fund). The Clinton administration reopened the doors to NGOs, and in marched an army of environmentalists. Bruce Babbitt, Secretary of the Department of Interior, formerly headed the League of Conservation Voters. Assistant Secretary, George Frampton, formerly presided over The Wilderness Society, the same Wilderness Society founded by avowed Socialists Robert Marshall and Benton MacKaye. Several others in the Clinton administration were recruited directly from NGOs.³⁰

This formidable array of environmental bureaucrats is commanded by Vice President, Al Gore, not President Clinton. Gore immediately named his former assistant, Carol Browner, to head the EPA, and another assistant, Katie McGinty, to head the White House Office on Environmental Policy. Gore initiated the National Performance Review (NPR) which was sold as the "reinvention of government." Gore, as Senator, apologized at the Earth Summit in Rio de Janeiro for President Bush's failure to sign the Biodiversity Treaty, and then as Vice President, applauded Bill Clinton's signature binding America to a world wide environmental agenda under the control of the United Nations. Despite the U.S. Senate's refusal to ratify the Convention on Biological Diversity, the administration's Ecosystem Management Policy is implementing the Convention's requirement to control of the use of all land, both public and private, to achieve the objectives of the United Nations.

Endnotes

1. Richard A. Epstein, *Takings: Private Property and the Power of Eminent Domain*, Harvard University Press, Cambridge, Massachusetts, p.2f.
2. *Ibid*, p.10. Epstein's discussion of emerging philosophies provides an excellent foundation for tracking the continuing conflict of philosophies which underlie land use policies.
3. *Ibid*, p.11.
4. Jo Kwong Echard, *Protecting the Environment: Old Rhetoric, New Imperatives*, Capitol Research Center, Washington, DC, p.7.
5. *Ibid*, p.13, 203.
6. Dave Foreman, *Confessions of an Eco-Warrior*, Harmony Books, New York, 1991, p. 179.
7. Ron Arnold and Alan Gottlieb, *Trashing the Economy*, Free

Enterprise Press, Bellevue, Washington, p.20.

8. Echard, *Op Cit.*, p.20.

9. Hearings before the Subcommittee on Economic Growth and Stabilization of the Joint Economic Committee, Ninety-fifth Congress, June 7 and 13, 1977, p. 154ff.

10. Gregg Easterbrook, "The Spotted Owl Scam: Was industry destroyed for a bird in no danger?" *The Sacramento Bee*, April 24, 1994.

11. Andy Stahl, Sierra Legal Defense Fund, Transcript of speech presented to Western Public Interest Conference, University of Oregon School of Law, Eugene, Oregon, March 5, 1988.

12. John Bessa, "Expert bugged by proposed listing," *Santa Cruz County Sentinel*, June 27, 1994.

13. "Straining at a gnatcatcher," *Sacramento Bee*, May 20, 1994.

14. Dianne Jacob, Supervisor, San Diego County, "MSCP: Balancing Economic Growth & The Environment," September 1997.

15. United States of America v. One Ford Tractor, Model 8630 #A927242, One Towner Offset Disc, Model A248 #24C665, Eastern District, U.S. District Court, #CV-F-94-5315.

16. Bill Devall and George Sessions, *Deep Ecology*, Peregrine Smith Books, Salt Lake City, 1985, p. 85.

17. Dave Foreman, *Op Cit.*, p.7.

18. *Ibid*, p.121.

19. Devall, *Op Cit.*, p. 30.

20. David Brower, *Introduction to Galapagos: The Flow of Wilderness*, 1968.

21. Devall, *Op Cit.*, p. 124.

22. *Ibid*, p.171.

23. "The Wildlands Project," *Wild Earth*, Special Issue, 1992, p.3.

24. *Ibid*, p.13.

25. "The Wildlands Project," *Op Cit*, p.21.

26. *Global Biodiversity Assessment*, (Cambridge University Press, 1995,) p. 993.

27. David A. Witts, *Theft*, La Verne University Press, La Verne, California, 1982, p. 15.

28. Report of the UN Conference on Human Settlements, Agenda Item 10, "Preamble," Vancouver, BC, May 31-June 11, 1976.

29. Environmental organizations represented in the Carter administration also include: Sheldon Novick, publisher of Environment Magazine, David Hawkins, from the Natural Resources Defense Council (NRDC), Gustave Speth from NRDC, Gerald Barney from Environmental Agenda, Marion Edey, from the League of Conservation Voters, Kathy Fletcher, from the Environmental Defense Fund (EDF), Rupert Cutler, from The Wilderness Society, George Davis, from The Wilderness Society, Dennis Hayes, Earth Day organizer, and EPA Administrator, Doug Costle, from Connecticut's Environmental Protection Department, who said:

"The fervor of the sixties has evolved into the environmental institution of today. Environmentalists today carry calculators instead of pickets. The street leaders of Earth Day have become the institution leaders of today. In fact, many of them are now EPA administrators."

Source: David A. Witts, *Theft*.

30. Clinton administration policy-makers from environmental organizations include:

Office of Management and Budget Deputy Director Alice Rivlin served as Chair of the Wilderness Society.

Scientific Advisor at the Department of Interior Thomas E. Lovejoy was an official at the World Wildlife Fund. (Lovejoy is the mastermind who created "debt-for-land" swap that let American environmental organizations buy foreign debt for as little as fifteen cents on the dollar, then give the purchased notes to a

sister organization in the debtor country to be redeemed at face value, with interest, for the purpose of purchasing land and expanding the influence of the organization).

Rafe Pomerance, Senior Associate for Policy Affairs at the World Resources Institute, has been appointed Deputy Assistant Secretary of State for Environment, Health and Natural Resources.

Former World Resources Institute Vice President Jessica Tuchman Mathews has been appointed Deputy Undersecretary of State for Global Affairs.

Former World Resources Institute President Gus Speth has been chosen by the White House to head the United Nations Development Programme.

Former Sierra Club Legislative Director David Gardiner is the Assistant Administrator for Policy Planning and Evaluation at the Environmental Protection Agency.

Brooks Yeager, Former National Audubon Society Vice President for Government Relations and Advisory Committee member for the MacWilliams Cosgrove Snider report, is Director for Policy Analysis at the Department of Interior.

Former Natural Resources Defense Council official John Leshy is Solicitor of the Department of Interior.

Source: *Organization Trends*, published by the Capital Research Center, September, 1993.