

## **How the Convention on Biodiversity was defeated**

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On June 29, 1994, the Senate Foreign Relations Committee approved the ratification of the Convention on Biological Diversity (Biodiversity Treaty) by a vote of 16 to 3. Only Senators Helms, Pressler, and Coverdell voted no. Three months later, on September 30, Senate Majority Leader, George Mitchell, for the second and final time, withdrew the Convention from the Senate calendar. The Treaty was never voted on, and now languishes in the bowels of government awaiting the arrival of a more friendly Senate. The defeat of the Treaty in the 103<sup>rd</sup> Congress came as a stunning victory for the private property rights and natural resource providers community, and was an astonishing defeat for the administration and its army of environmental organizations which had carefully orchestrated what it thought was certain ratification. The events that led to the defeat of the Treaty have been grossly misreported by the environmental community and by the main-stream press. Here is an accurate account of the events as they occurred, compiled from the records of many of the people who were in the forefront of the battle.

### **In the beginning**

The Treaty did not suddenly appear at the 1992 United Nations Conference on Environment and Development in Rio. It was first proposed by the International Union for the Conservation of Nature (IUCN) in 1981. The land use policies required by the treaty were also expressed in dozens of other UN documents and at other UN conferences, and incorporated into the agendas of NGOs for implementation through programs and legislation at the local, state, and federal level long before the Treaty was ever presented to the world.

An early indication of the Treaty's land use policies was embodied in a legislative proposal called the "Endangered Ecosystems Act," advanced by the Audubon Society in 1990. In 1991, the Keystone Center in Colorado conducted a study on "Biodiversity on Federal Lands." The American Sheep Industry Association (ASI) participated in that study and were first introduced to Kenton Miller of the World Resources Institute (WRI). WRI is a second-generation off-spring of the IUCN, and Kenton Miller was designated to coordinate the compilation of Section 13 of the *Global Biodiversity Assessment*. Many of the land use policies recommended in the Keystone Study were written into legislation proposed by Congressmen Studts and Shermer: HR 1969 Forest Biodiversity and Clearcutting Prohibition Act; and HR585 National Biological Diversity Conservation and Environmental Research Act. Neither of these bills became law, although many of the land use policies they contained have been implemented administratively.

### **The Treaty**

Even before the Treaty was presented in Rio, the American Sheep Industry Association adopted a policy statement opposing "any regulation, legislation and treaties on biodiversity that does not adequately consider regulatory takings, fails to recognize socio-economic needs and influences, or preempts sound management authorities of the United States." President George Bush refused to sign the Treaty when it was presented in Rio in 1992. Then-Senator Al Gore, and Bush's EPA Administrator, William K Reilly publicly criticized, to the point of ridicule, Bush's refusal to sign.

Tom McDonnell, Director of Natural Resources at ASI is the person on whose shoulders fell the responsibility of implementing ASI's policy regarding biodiversity. In early 1993, McDonnell was a presenter at a Conference conducted by the Environmental Conservation Organization in Reno. The American Farm Bureau Federation, and nearly 100 other grassroots organizations concerned about land use policies, learned about biodiversity from ASI's previous research and involvement. On June 4<sup>th</sup>, 1993, newly-elected President Bill Clinton signed the Treaty and Vice President Al Gore was already constructing his White House Task Force on Ecosystem Management in preparation for implementing the Treaty. The Biodiversity Action Network (BIONET), a coalition of environmental organizations, assumed the task of promoting the Treaty's passage in the Senate. On August 16, 1993, ASI obtained the minutes of their meeting at which the strategy for promoting the Treaty was outlined. The U.S. State Department transmitted the Treaty to the Senate officially on November 20 and asked for "fast-track" ratification. In January of 1994, ASI adopted another policy statement which specifically said: "...that ASI support the defeat of the ratification of this treaty by the U.S. Senate." The Senate Foreign Relations Committee held hearings on the Treaty in April, at which Undersecretary of State, Timothy Wirth, recommended ratification. Vice President Al Gore's reinvention of government, under the label of "Performance Review" was well underway. ASI obtained internal working documents from the EPA, DOI, USFS, and Bureau of Reclamation, and the State Department, dealing with restructuring for the implementation of the Treaty under the title "Ecosystem Management."

### **The battle engaged**

The Foreign Relations Committee voted 16 to 3 to recommend ratification of the Treaty on June 29. On July 5, McDonnell called Henry Lamb at the Environmental Conservation Organization to discuss strategies for defeating the Treaty. The first step was a letter of opposition to be signed by the grassroots organizations involved with property rights and natural resources. Lamb drafted a letter which was reviewed the next day by McDonnell, and Kathleen Marquardt of Putting People First. The letter and sign-on authorization forms were faxed to 75 selected organizations on July 7, with a request to refax to their respective fax networks. The Foreign Relations' Minority Report was released on July 11, which raised questions that were not answered in the committee hearings. On July 14, ASI requested the Alliance for America to fax the sign-on alert to its 4400 participant network.

On July 19, Dr. Michael Coffman, a Director of Maine Conservation Rights Institute, and a regional director for the Alliance for America, was in Washington talking to Senator Mitchell's staff and to Senator Dole's staff, trying to convince them that the Treaty would have the effect of making the "Wildlands Project," the objective of the Treaty's implementation. ASI produced a 100-page analysis of the Treaty which was released on July 28. The study revealed the existence of a draft of the *Global Biodiversity Assessment*, required by the Treaty, and the identification of the "Wildlands Project" as a primary mechanism for Treaty implementation. McDonnell met by teleconference with staff of the Republican Policy Committee and the Foreign Relations committee to review the ASI analysis on August 1. Senator Mitchell announced on August 3, that the Treaty vote would occur on August 8. Throughout the night of August 3, a fax drafted by Coffman was distributed through the Alliance for America Network to 4400 organizations and individuals calling for support in opposition to the Treaty. About 50 Senate staffers and representatives from the American Farm Bureau and the National Cattlemen's Association met on August 4 for an in-depth presentation on the ASI analysis and review of the Treaty. All day long, Senate fax machines and switchboards were swamped with messages urging Senators to vote against the Treaty.

The following day, August 5, Senator Dole issued a letter to George Mitchell, signed by 35 Republican Senators, which said Republicans would not ratify the Treaty until questions raised by the Minority Report had been adequately answered. Mitchell withdrew the scheduled vote later that day. The State Department responded to the Minority Report on August 8. The response listed several "Understandings" which were to be attached to the ratification legislation which supposedly would solve all the questions raised by the Minority. ASI drafted a six-point response to the State Department's "Understandings" the next day, which included a reference to Article 37 of the Treaty that specifically forbids any exceptions or reservations to the Treaty. On August 10, the National Wilderness Institute launched its legal review of the Treaty, conducted by Mark Pollot, to examine the Treaty's potentially excessive intrusion into private property rights. Congress recessed between August 26 and September 12.

### **The final victory**

As Congress reconvened, the Environmental Conservation Organization mailed letters to 1050 Mayors, urging them to oppose the Treaty. On September 19, every Senator received [ECO's letter opposing the Treaty](#), co-signed by 293 organizations. Mitchell announced on September 27, that the Treaty would be rescheduled for a vote, but did not specify when. Michael Coffman again issued another fax alert through the Alliance for America network. The Blue Ribbon Coalition, Chuck Cushman's Private Property Rights Alliance and dozens of other grassroots organizations refaxed the alert. Once again, Senate switchboards and fax machines were overwhelmed.

The following day, Coffman was again in Senator Mitchell's office explaining that the Treaty was the embodiment of the Wildlands Project and that the "smoking-gun" evidence was contained in the *Global Biodiversity Assessment (GBA)*. Coffman and Bob Voight, President of Maine Conservation Rights Institute, met with Senator Cohen with

the same message. Both Mitchell and Cohen agreed to get a copy of the GBA. September 29, Mitchell announced that the vote on the Treaty would occur at 4:pm the following day. ASI received a copy of the peer-review draft of Section 10 of the GBA and immediately overnighted copies to Lamb, Coffman, and selected Senate Staff.

Ironically, the *Chicago Tribune* reported on September 30, that the GBA did not exist. A front-page article by Jon Margolis denied the existence of the very document that was delivered to key Senators the same day the article appeared. Similar stories appeared in the *Washington Post*, and other newspapers within a few days, suggesting the influence of the White House "spin team." Coffman prepared color maps illustrating the impact of the Treaty on the northeast, including Mitchell's state. The maps were overnighted to Mitchell's office, and to the Republican Policy Committee and arrived the morning of September 30. Senate staff enlarged the maps into 4-foot by 6-foot posters, along with enlargements of selected text from the GBA.

As recorded in the [Congressional Record \(S13790\)](#), Friday, September 30, Senator Kay Bailey Hutchison (R-TX) rose on the Senate floor with Coffman's maps and GBA text excerpts to oppose the Treaty. Senators Burns, Craig, Helms, Nickles, and Wallop also spoke against the Treaty. Bob Voight had once worked on one of Mitchell's campaigns and had become a friend with Mitchell and some of Mitchell's staff. Voight called Mitchell's office during the morning of September 30 in a final attempt to get Mitchell to withdraw Treaty. Voight believed that if Mitchell knew that the UN had lied about the existence of the GBA, Mitchell would withdraw the Treaty. Within an hour, and about an hour before the Senate debate, Voight received a call from Mitchell's office reporting that the Treaty would be withdrawn.

The Treaty was withdrawn from the Senate calendar and has not yet been rescheduled for a vote. It is not dead. It can be rescheduled whenever the Senate Majority Leader wishes to reschedule it. Perhaps this account of activities will help prepare others for the next appearance of the Convention on Biological Diversity.