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Clear Act Passes House, Vote On Reid LWCF Trust Fund Shortly

This will be a vote on whether or not you face Kelo type Eminent Domain or Condemnation for years. All the Democrats appear set to vote for the bill. But don't take them for granted. Call fax and e-mail both Republicans and Democrat Senators. Deluge them with calls. We must turn a few Democrats.

You must stop the Reid LWCF Eminent Domain Energy Bill, or your future includes massive Eminent Domain and Condemnation. At the very least get your Senator to remove LWCF Trust Fund from the Reid Eminent Domain Energy Bill by amendment.

This must be an all out campaign. You must get your Senators to filibuster or put a hold on the Reid Eminent Domain Energy Bill.

Call and ask for the Staff person who handles the Reid Energy Bill. Any Senator may be called at (202) 224-3121.

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Action Items:

-----1. Please forward this e-mail as widely as possible. The vote is likely as early as Wednesday, August 4th. In order to get this message to the maximum number of people in time, it is critical that you forward this e-mail as widely and as quickly as you can. The vote could be delayed so keep calling.

-----2. Deluge both your Senators with calls. Call any Senator at (202) 224-3121. Besides calling, you need to fax and e-mail them. But do it all. Don't stop. They must be overwhelmed with calls.

-----3. Call at least five to ten friends and neighbors. Both your Senators phones must not stop ringing.

The Vote on the Reid Eminent Domain LWCF Trust Fund Bill is most likely to come this Wednesday, August 4th before the August Recess. You must call every day through Wednesday. In fact, keep calling until you hear from us or another source that the vote has taken place. You must call every day. Your Senator's phones must not stop ringing.

The Park Service, Forest Service, Fish and Wildlife Service and Bureau of Land Management have used the LWCF to fund massive acquisition but the Park Service is the guiltiest. They have wiped out over 150,000 landowners and dozens of small communities under condemnation or threat of condemnation.

-----If the LWCF Trust Fund passes as part of the Reid Energy Bill, this "Willing Seller" story below will become a reality for you.

-----Heritage Foundation -- Also, read the report below about the Reid Eminent Domain and Condemnation Energy Bill from Robert Gordon with the Heritage Foundation.

Willing Seller A Myth

"John Jones is a willing seller. He didn't want to sell and held out as long as he could. First the Park Service came in and purchased the homes, farms and timberlands of his neighbors who did want to sell. There will always be some.

Then the agency began to search out those families who were in some kind of financial distress such as from a death, divorce, loss of job and other reason.

"Jones watched as his community was checkerboarded by the Park Service. He remembered being told when the park was created that he would not be forced out. But a huge Trust Fund passed Congress which gave the Park Service money automatically every year without going through the appropriations process. The Park Service had more money than it knew what to do with. Eminent domain and condemnation were now commonplace.

Jones remembered that the Trust Fund has been slipped in to a bill dealing with the Gulf Oil Spill in by Senator Harry Reid of Nevada. He could not explain what buying billions of dollars of private property had to do with an oil spill. Or why Reid and the Congress had acted so quickly before their own investigations and Commissions were complete.

Now the Park Service was targeting local businesses and the county itself. Many small businesses were purchased and put out of business. Others just withered and died due to lack of business. The Park Service purchased the holdings of several large timberland companies and large farms.

There were always hints of eminent domain, and some were already in court. People were told they would have to sell eventually, so they might as well do it now as "willing sellers" while the Park Service was spending money here and before the infrastructure deteriorated.

Smaller timber owners and farmers began to sell as they saw that the logging and agriculture infrastructure might eventually not be there. The mill eventually had to close because it could not get enough wood. Like a natural ecosystem, the economic ecosystem of a community can become increasingly fragile, but all the government and the environmentalists talked about were the fragility of the ecosystem while pretending they were improving the economy.

“As more timberland and farms were purchased, more homes and then more farms began to disappear. The Park Service began to focus on the farmers and ranchers. Many residents wanted to hold out but with fewer jobs in the county, the value of their homes and property began to go down. As the Park Service purchased them, they lay empty for months or even years because the agency said they it did not have the funds to clear them out. They became havens for vandals and drug houses, and targets for mysterious fires.

It is hard to understand how the Park Service and other agencies have the money to buy out local communities but according to reports we have seen, they are over \$5 billion behind in deferred maintenance.

“The Nature Conservancy and other land trusts began to circle like buzzards. They would buy from financially distressed landowners, and then turn the land over to the Federal government. Time after time this happened, quietly, secretly and silently they helped undercut the community gradually eliminating the tax base, the economic base, and the population. Yet nicer homes with nice views seemed to be selectively occupied by strangers with connections, who were frequently heard touting the Park Service. Some of them were park officials.

“We called our Senators and Congressman for help to stop the Eminent Domain and Condemnation. They would write a letter to the Park Service but the mass land acquisition just kept on and on.

“One Senate staff person told me that if the Senator had known he would end up as a management consultant for continuing problems between landowners and the Park Service, he would never have voted for the bill.

He had not realized that getting a park appears to mean a never ending conflict between the Park Service and the local community that had somehow been targeted for removal and replacement by a favored political class. The staff person said he had not heard of the history of what the Park Service had done before in other areas. The Senator and his staff had believed the reassurances by officials and the environmentalist lobbyists.

“Local officials can vouch for that ever the present conflict. Local elected officials were not consulted as the Park Service and land trusts purchased easements on large parcels without notifying or discussing the issue with local elected officials. Elected officials would wake up in the morning to find their tax base gone, and their future with it. And they had no say in the matter. No advance notice. Virtually no companies would invest in their county now. There was no land base. One day they had a future and the next day it was gone.”

“As properties were taken off the tax rolls, the schools and county services began to suffer. Several closed, making longer trips to school necessary for families. The school district didn't have the

money for the necessary busses. Roads began to close. As the Park Service purchased large areas, the agency put up chains across the roads. Some of these roads had been used for years by neighbors as access points to the river or to go camping, woodcutting or berry picking. Usually we knew another way around but over time, all the access was closed off to large areas.

“Churches, service clubs and other community services began to close. The library was in trouble. The hours were cut for it and other county services. There had been several markets in town and three gas stations. There is only one of each now and it looks like the store will close. That means an 80 mile drive to Millersville for groceries. Over time, other essential services and stores began to disappear.

“When the park was created they promised tourism. I don’t know where it is. We gave up a lot of good jobs for this park and the tourists don’t come. We had always had the scenery. The Park Service didn’t create that, and didn’t do much else either besides the restrictions it imposed. Several motels and restaurants were built in anticipation of the visitors. All but one restaurant is closed, and it cut its hours back. We have two motels still open but they are struggling.

We have a very nice ski area but a Park Service trail runs through it. The agency has harassed the owners so often that they’re close to giving up. They can’t get any kind of commitment from the Park Service as to a final trail location so they can’t invest in modernizing and expanding the ski area. There sure are a lot of people in town who would benefit if the ski area were allowed to meet its potential.

We had thought the Park Service supported recreation. Now it seems the opposite is true. We heard from people out West that the Park Service and the environmental groups were increasingly becoming anti-recreation. It couldn’t be true we said. It looks like we were wrong. They seem to be against skiing and snowmobiling. It doesn’t make sense.

“The county and the town had no choice but to raise our taxes. The tax base for the county was shrinking almost daily. We had one local bank and several bank branches. Now there is only one branch open as part of the market, but it may go away too. The banks have not made loans in our town for several years now because the future is unstable. They won’t make loans to loggers, farmers, ranchers, equipment suppliers, or small businessmen because of the threat from the Feds. No new houses have been built in some time. The theater closed and the cable television company is considering shutting down. It feels like a ghost town.

“Some of my neighbors are determined to stay and suffer the consequences and severe hardships of living within a now nearly all Federal enclave. I love my town. I was born and raised here, went away to college and came back. It looks like that even though I stood up to those Federal land acquisition agents, there will soon be nothing left to stand up for. I never thought I’d be a willing seller. But I am now. They didn’t tell us that this is what ‘willing seller’ means.”

-----The “willing buyer, willing seller procedure of acquiring land touted by park officials is ‘meaningless’ and a more proactive method is generally used,” said William Kriz, chief of Land Acquisition in an article in the Concord Journal (Massachusetts) in 1988.

<http://www.moosecove.com/propertyrights/index.shtml#willingsellermyth>

From the Heritage Foundation regarding the Reid Energy Bill.

The Reid Energy Bill: Another Government Land Grab

Posted By [Robert Gordon](#) On July 30, 2010 @ 6:00 pm In [Energy and Environment](#) | [2 Comments](#)

The all-too-familiar idea “a crisis is a terrible thing to waste” has reared its head in Majority Leader Harry Reid’s (D–NV) [Clean Energy Jobs and Oil Company Accountability Act of 2010](#)^[1]. In addition to proposing hurdles high enough to trip efforts to develop energy resources in the Gulf of Mexico, the proposal would gift to the greens one of their long sought desires: a full pot of money in the Land and Water Conservation Fund (LCWF). It would be a big pot of cash that can be spent “without further appropriation” to, among other things, gobble up more private property.

Similar provisions are contained in the House’s Consolidated Land, Energy, and Aquatic Resources Act of 2009 (CLEAR Act). Structuring such a perpetual funding machine is one of the many [recommendations](#)^[2] the green community made to the Obama Administration in “Transition to Green: Leading the Way to a Healthy Environment, a Green Economy and a Sustainable Future.”

The LCWF was created decades ago and authorized for \$900 million annually to come predominately from receipts from the government’s offshore oil and gas leases. As it is, Congress has had to authorize expenditures from the fund, and the greens have been frustrated by a history of it not being fully funded.

Still, according to [CRS](#)^[3], between 1965 and 2002, \$8.7 billion in LCWF funds enabled the National Park Service, U.S. Fish and Wildlife Service, U.S. Forest Service, and Bureau of Land Management to acquire about 4.5 million acres, an area slightly smaller than New Jersey. In the same period, CRS found that the LCWF also funded 37,000 state and local projects totaling approximately \$3.5 billion to conserve another 2.3 million acres.

Reid’s bill would fill the fund with a minimum of just under \$5 billion through fiscal year 2016. Spending these funds would no longer require congressional approval. Between fiscal year (FY) 2017 and FY 2020, all LWCF funding—without fiscal year limitation—would be subject to appropriations. For FY 2021 and beyond, the LWCF pot would be filled with a minimum of a half billion annually and, again, evade congressional approval.

When this concept was floated during the 107th Congress as the Conservation and Reinvestment Act Fund (CARA), CRS noted that “support for the CARA legislation seems less intense in this Congress, possibly because of growing concern about a likely federal budget deficit in future years.”

Well, it’s the future, and the budget deficits are beyond what anyone could have imagined during the 107th. However, even if we were not

saddled with enormous budget deficits, at some point one has to ask just how much more [government ownership](#)^[4] and control over land we need. Currently the federal government owns in the neighborhood of [653,299,090](#)^[5] acres. That's an area larger than [Mexico and Afghanistan](#)^[6] combined, and it does not include lands owned by state, county, or municipal governments.

Beyond the simple fact that the federal government does not need to be spending even more money it does not have, there are numerous other reasons this is a bad idea. For one, the federal government can't manage what it already has. In 2003 the Government Accounting Office (GAO) [reported](#)^[7], "Over the years, the [National Park Service's] estimates of the cost of its deferred maintenance have varied widely—sometimes by billions of dollars. Currently, the agency estimates that its deferred maintenance backlog will cost over \$5 billion."

By 2007, GAO [reported](#)^[8], "Last year, the [Interior] department spent \$1.6 billion on annual maintenance and construction but had a \$9.6 billion backlog of deferred maintenance projects."

Along the same lines, the Government Services Administration [reported](#)^[5] in 2004 that the federal government owned some 5,104,608 acres classified as "vacant." That's an area larger than Massachusetts. Do we really need to increase the maintenance burden for federal agencies when they can't handle what they already have?

But also gobbling up more private property is a bad idea for the economy in general and for communities across the country. Federal policy already recognizes that federal land ownership can erode local tax bases by having provisions for payments in lieu of taxes (PILT). According to the [Department of the Interior](#)^[9], the amount authorized for PILT in FY 2010 under the Emergency Economic Stabilization Act of 2008 was \$358.5 million. Do we really need to take more land off local tax roles?

Further, once part of the federal estate, land is more subject to the whims of government regulators and of Congress. Using the regulatory machine, [plans](#)^[10] are floating around the Obama Administration to lock up millions of acres of the federal estate, which would likely thwart job-creating activities like ranching, mining, and forestry.

For its part, Congress already crushed any hope of significant economic use of millions of acres of federal land by jamming through the 1,248-page [Omnibus Lands Act](#)^[11] of 2008. The Congressional Budget Office [estimated](#)^[12] that monstrosity at more than \$6.4 billion, and that does not include royalties and resulting tax revenues that might have been generated from forgone economic uses. Do we really need to constrict economic use of more land?

The greens shill for an ever larger federal estate, peddling the idea of an [ecotourism economic boom](#)^[13]. Senator Reid's home state is already 84.48 percent owned by the federal government, and that does include any foreclosed housing ([FNE](#)^[14], [FME](#)^[15], [FHA](#)^[16]) now in government hands. While there are quite a few unemployed in Nevada with enough time on their hands to go backpacking, more government land is not what they need, nor does the nation need a special entitlement nestled within the federal government to please the insatiable greens.

- The Foundry: Conservative Policy News. -

<http://blog.heritage.org> -

Article printed from The Foundry: Conservative Policy News.:

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URL to article: **<http://blog.heritage.org/2010/07/30/the-reid-energy-bill-another-government-land-grab/>**

URLs in this post:

[1] Clean Energy Jobs and Oil Company Accountability Act of 2010:

http://democrats.senate.gov/pdfs/The_Clean_Energy_Jobs_and_Oil_Company_Accountability_Act_of_2010.pdf

[2] recommendations:

http://docs.nrdc.org/legislation/leg_08112401.asp

[3] CRS: **<http://www.nationalaglawcenter.org/assets/crs/97-792.pdf>**

[4] government ownership: **<http://blog.heritage.org./2009/11/19/a-leviathan-of-land-perspective-on-the-size-of-the-us-govt-in-pictures/>**

[5] 653,299,090:

http://www.gsa.gov/graphics/ogp/Annual_Report__FY2004_Final_R2M-n11_0Z5RDZ-i34K-pR.pdf

[6] Mexico and Afghanistan:

<https://www.cia.gov/library/publications/the-world-factbook/rankorder/2147rank.html>

[7] reported: **<http://www.gao.gov/products/GAO-03-1177T>**

[8] reported: **<http://www.gao.gov/highrisk/agency/doi/reducing-interiors-deferred-maintenance-backlog.php>**

[9] Department of the Interior:

<http://www.doi.gov/pilt/faq.html#appropriation>

[10] plans: **<http://blog.heritage.org./2010/02/23/war-on-the-west-ii/>**

[11] Omnibus Lands Act:

<http://www.heritage.org/Research/Reports/2008/11/Omnibus-Lands-Bill-Restricts-Energy-Exploration>

[12] estimated: **<http://www.cbo.gov/ftpdocs/99xx/doc9979/s22.pdf>**

[13] ecotourism economic boom: **<http://fundlwcfc.com/public-support.html>**

[14] FNE: **<http://www.homepath.com/state/nv.html>**

[15] FME: **http://www.homesteps.com/hm01_1featuresearch.htm**

[16] FHA: **<http://fha.foreclosure.com/state/NV.html>**

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From ALRA: What's The Problem With The Guaranteed Trust Fund?

There are a number of problems with the LWCF Guaranteed Trust Fund.:

-----A. Trust Fund Creep. The LWCF started much lower and gradually was increased to \$900 million per year. If Congress passes the Reid LWCF Trust Fund you can expect the new LWCF Trust Fund be grow as Congress gradually increases it's size.

-----B. Every single issue organization will want its own trust fund.

-----C. Because the LWCF has had to compete with other important national priorities in the Congressional appropriations process, the yearly amount of LWCF funds has gone up and down. If the new LWCF Trust Fund passes Congress, it will no longer have to compete

with other national priorities. It will always get its money first. So who cares about jobs, health care, the military, veterans' affairs, education, and more. Land Acquisition will always be first in line.

So in these economic times, with jobs scarce, you can count on the fact the land acquisition, eminent domain and destroying local communities and the Park Service and other agencies who carry out these tasks will always get their money.

----D. If it becomes law, the new Reid LWCF Trust Fund will be an incentive to create many more new Federal areas. The Congressmen will say, "Why worry about it, let the trust fund pay for it." The result will be a massive increase in new land lockups by the Federal agencies.

“Those That Fail to Remember, History Are Bound To Repeat It”

To date little has been done by the Congress or the Federal agencies to respond to the following reports by the General Accounting Office, now called the Government Accountability Office, critical of land acquisition policies and practices using the Land and Water Conservation Fund (LWCF) carried out by those agencies.

In large measure, the response by Congress has been to give the Park Service, Forest Service, Fish and Wildlife Service and Bureau of Land Management less money to buy land. That greatly reduced the problem. More money will start the problems all over again. We're reminded of the Clinton campaign motto in 1992, "It's the Economy Stupid." In the case of land acquisition, "It's the Money Stupid."

The scope and harm caused by land acquisition to local communities and economies is simply a function of how much money the Federal agencies get and the type of oversight they receive. The Reid LWCF Trust Fund over time will increase the money and reduce the oversight. The result will be severe economic and cultural damage to rural America. It will gradually mean the end of Rural America.

The response by Congress appears to be, "Let's turn the LWCF into a Billion Dollar Per Year off budget, off appropriations, automatic Trust Fund" That means the funds don't have to go through Congress or the appropriations process each year and do not have to compete with other national priorities like jobs, health care, the military, education, and many more. With the Reid LWCF Trust Fund, land acquisition and the destruction of Rural America goes to the head of the class every year automatically.

Today there is largely a new generation of Members of Congress and staff who do not remember the horror stories of the 60's, 70's and 80's and 90's. Most Members of Congress don't remember the days when every Member of Congress had to become a management consultant to the Park Service because the agency was unable to solve its conflicts. Local communities had to enlist the help of the Senators and Congressmen because the Park Service works poorly with neighbors and local communities.

These problems almost always have their origin in funding. If the Park Service got a lot of money they became very bad neighbors. The situation at Saddleback Mountain Ski Area in Maine a few years back is a perfect example. For over twenty years the landowner was unable

to get the Park Service to resolve the route of the Appalachian Trail. Without Congressional intervention, there was no hope.

The owner of the ski area was prevented from upgrading and expanding his potentially world class facility because the Park Service continually refused to settle on a trail route. If the Park Service can't get it right on less than three miles of trail, why should the public in Maine or anywhere else trust them with billions of additional dollars for land acquisition.

Of course what no one knew publicly at the time was that the Park Service had signed a secret MOU with the Appalachian Trail Conference and the ATC was deciding who got condemnation and lost their property.

The reason you haven't heard more recent horror stories is because the Congress has not given the Park Service the massive amounts of money they were getting years ago.

If the Reid LWCF Trust Fund passes, there will be no end to the horror stories and Congressmen and Senators better prepare themselves to become management consults for the Park Service and other agencies that will be unable to spend all the LWCF money without conflict.

Some will say that the GAO reports listed below are dated. They are the most current reports on a problem that was greatly reduced with the reduction in funding. Since Congress is considering greatly expanded and guaranteeing the funding, these reports must be examined carefully to try to make sure any potential legislation does not cause a repeat of the same mistakes.

Government Accountability Office (GAO) Reports About Land Acquisition (Formerly Called the General Accounting Office.

-----I. "The Federal Drive To Acquire Private Lands Should Be Reassessed" (CED-80-14) (December 14, 1979).

-----II. "Federal Land Acquisition and Management Practice" (CED-81-135) (Sep. 11, 1981).

-----III. "Lands In The Lake Chelan National Recreation Area Should Be Returned To Private Ownership" (CED-81-10) (Jan. 22, 1981).

-----IV. "The National Park Service Should Improve Its Land Acquisition and Management At Fire Island" (CED-81-78) (May 8, 1981).

-----V. "Federal Protection of Wild and Scenic Rivers Has Been Slow and Costly" (CED-78-96) (May 22, 1978).

-----VI. "Federal Land Acquisitions By Condemnation – Opportunities To Reduce Delays and Costs" (CED-80-54) (May 14-, 1980).

-----VII. "Limited Progress Made In Documenting and Mitigating Threats To Parks" (RCED-87-36) (February 1987).

-----VIII. "New Rules for Protecting Land In The National Park System – Consistent Compliance Needed" (RCED-86-16) (October 16, 1985).

Sincerely,

August -- 2010

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