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106TH CONGRESS, 1st Session | HOUSE OF REPRESENTATIVES | REPORT 106–142

AMERICAN LAND SOVEREIGNTY PROTECTION ACT

MAY 13, 1999.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources, submitted the following

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 883]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 883) to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired lands, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

H.R. 883 will restore the Constitutional role of Congress in managing lands belonging to the United States, preserve the sovereignty of the United States over these lands, and protect State sovereignty and private property rights in non-federal lands adjacent to federal lands.

BACKGROUND AND NEED FOR LEGISLATION

The American Land Sovereignty Protection Act (H.R. 883) asserts the Constitutional power of Congress over management and use of lands belonging to the United States. Under Article IV, section 3 of the United States Constitution, the power to make all needful rules and regulations governing lands belonging to the United States is vested in Congress. Yet over the last 25 years, an

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increasing expanse of our nation's public lands have been included in various international land use programs, most notably United Nations Biosphere Reserves and World Heritage Sites, with virtually no Congressional oversight or approval. The international agreement covering World Heritage Sites, for example, largely leaves Congress out of the nomination process.

United Nations World Heritage Sites, Ramsar Sites and Biosphere Reserves are under the jurisdiction of the United Nations Educational, Scientific and Cultural Organization (UNESCO). World Heritage Sites and Ramsar Sites are recognized by UNESCO under "The Convention Concerning Protection of the World Cultural and Natural Heritage" (World Heritage Convention) and "The Convention on Wetlands of International Importance Especially as Waterfowl Habitat" (Ramsar Convention), respectively. Biosphere Reserves are part of the U.S. Man and Biosphere Program which operates in conjunction with a worldwide program under UNESCO. The U.S. Man and Biosphere Program is not authorized by Congress and has no legislative direction. Over 68 percent of the land in our national parks, preserves and monuments have been designated as United Nations World Heritage Sites, Biosphere Reserves or both. Biosphere Reserves alone cover an area about the size of Colorado, our eighth largest state. There are now 47 UNESCO Biosphere Reserves, 20 World Heritage Sites and 16 Ramsar Sites in the United States.

In becoming a party to these international land use agreements through Executive Branch action, the United States may be indirectly agreeing to terms of international treaties, such as the Convention on Biological Diversity, to which the United States is not a party or which the United States Senate has refused to ratify. For example, The Seville Strategy for Biosphere Reserves recommends that participating countries "integrate biosphere reserves in strategies for biodiversity conservation and sustainable use, in plans for protected areas, and in the national biodiversity strategies and action plans provided for in Article 6 of the Convention on Biological Diversity." Furthermore, the Strategic Plan for the U.S. Biosphere Reserve Program published in 1994 by the U.S. State Department states that a goal of the U.S. Biosphere Reserve Program is to "create a national network of biosphere reserves that represents the biogeographical diversity of the United States and fulfills the internationally established roles and functions of biosphere reserves."

Also disturbing is that designation of Biospheres and World Heritage Sites rarely involve consulting the public and local governments. At the five hearings held on the American Land Sovereignty Protection Act since the 104th Congress, state and local elected officials as well as grassroots citizen activists from Alaska, Arkansas, Missouri, Minnesota, New Mexico and New York testified that no one consulted with the public or local governments when international land designations were made in their states. The domestic designation process for World Heritage Sites and Biosphere Reserves is so controversial that the Alaska, Colorado and Montana state legislatures have passed resolutions in support of the American Land Sovereignty Protection Act. In addition, the Kentucky State Senate recently passed a resolution opposing creation of any

biosphere reserves within Kentucky and supporting the concepts embodied in this legislation.

In fact, UNESCO policy apparently discourages an open nomination process for World Heritage Sites. The Operational Guidelines for the Implementation of the World Heritage Convention state:

> In all cases, as to maintain the objectivity of the evaluation process and to avoid possible embarrassment to those concerned, State [national] parties should refrain from giving undue publicity to the fact that a property has been nominated * * * pending the final decision of the Committee of the nomination in question. Participation of the local people in the nomination process is essential to make them feel a shared responsibility with the State party in the maintenance of the site, but should not prejudice future decision-making by the committee.

By allowing these international land use designations, the United States promises to protect designated areas and regulate surrounding lands if necessary to protect the designated site. Honoring these international agreements could force the federal government to prohibit or limit some uses of private lands inside or outside the designated reserve unless our country wants to break a pledge to other nations. At a minimum, this puts U.S. land policy-makers in an awkward position.

Federal regulatory actions could cause a significant adverse impact on the value of private property and on the local and regional economy. The involvement of the World Heritage Committee (WHC) in the National Environmental Policy Act review process for the New World Mine Project near Yellowstone National Park, a World Heritage Site, exemplifies this problem. The New World mine project is outside of the boundary of Yellowstone National Park and is not included in the World Heritage Site. In fact, nearly all of the proposed minesite is located on private property, and U.S. law (16 U.S.C. 470a–1(c)) prohibits including any non-federal property within a U.S. World Heritage Site without the consent of the owner.

The fact that the proposed project was not a part of the Yellowstone World Heritage Site did not prevent the WHC from holding a "hearing" on the project. Creation of a buffer zone, possibly ten times as large as the Park, was suggested by at least one member of the WHC. However, by excluding the federal lands on which a small part of the New World Mine Project lies from an adjoining wilderness area, Congress had already determined not to create such a buffer zone and to make these lands available for multiple uses, including mining.

It is clear from this example, that at best, World Heritage Site and Biosphere Reserve designations give the international community an open invitation to interfere in U.S. domestic land use decisions. More seriously, these international agreements potentially have several significant adverse effects on the American system of government. Domestic land use policy-making authority is further centralized at the federal/Executive Branch level, and the role that ordinary citizens have in the making of this policy through their elected representatives is diminished. The Executive Branch may

also invoke these international agreements in an attempt to administratively achieve an action within the jurisdiction of Congress, but without consulting Congress. The current framework for implementing the World Heritage Site and Biosphere Reserve programs has eaten away at the power and sovereignty of the Congress to exercise its constitutional power to make the laws that govern U.S.-owned land.

Perhaps the most serious problem with international agreements, such as the World Heritage Convention, is that the international bodies which administer them do not represent the American people and cannot be held accountable by them. In a May 5, 1999, letter to Congressman Bruce Vento, former U.N. Ambassador Jeane J. Kirkpatrick says it best:

> In U.N. organizations, there is no accountability. U.N. 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 U.N. 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 property rights that lie near a national park?

COMMITTEE ACTION

H.R. 883 was introduced on March 1, 1999, by Congressman Don Young (R–AK) along with 125 original cosponsors. The bill was referred to the Committee on Resources.

On March 18, 1999, the Committee held a legislative hearing in Washington, D.C., on H.R. 883. A total of 13 witnesses testified. Ten witnesses, including the Hon. Jeane J. Kirkpatrick, Ambassador to the U.N. during President Reagan's administration, testified. Ambassador Kirkpatrick said that Congress should not cede its Constitutional powers and responsibilities to a global organization in which affected Americans have no representation. Dr. Jeremy Rabkin, a professor in the Department of Government at Cornell University, discussed the Constitutional problems with international agreements such as the Convention Concerning Protection of the World Cultural and Natural Heritage. Other witnesses which testified in support of H.R. 883 include a former mining executive associated with the New World Project, an Arizona rancher, a representative from the Concerned Women for America, and a representative from a labor organization. Witnesses for the Department of State and the Department of the Interior testified against H.R. 883. A representative from a historical preservation group also spoke against the bill.

On May 1, 1999, the Committee held a field legislative hearing in Rolla, Missouri, on H.R. 883. Twelve witnesses testified includ-

ing a county commissioner, representatives from several state and local property rights groups, representatives from labor and business trade associations and concerned citizens. All of the witnesses testified in favor of H.R. 883. Three environmental groups were invited to testify at this hearing, but they declined the invitations.

Many of the witnesses at the Rolla hearing spoke first-hand about their recent experience with the Biosphere Reserve nomination process associated with the ill-fated Ozark Highlands Man and Biosphere proposal. All of the witnesses said that neither the public at large nor local governments had any meaningful input into the development of this proposal. In fact, most people in southern Missouri were unaware that such a proposal was even being developed.

On May 5, 1999, the Full Resources Committee met to consider H.R. 883. The bill was ordered favorably reported without amendment to the House of Representatives by a bipartisan roll call vote of 26–14, as follows:

Committee on Resources
U.S. House of Representatives
106th Congress

Full Committee

Date 5-5-99

Roll No. 1

Bill No. H.R. 883 Short Title American Land Sovereignty Protection Act.

Amendment or matter voted on: Final Passage

Member	Yes	Nay	Pass	Member	Yes	Nay	Pass
Mr. Young (Chairman)	X			*Mr. Miller*		X	
Mr. Tauzin				*Mr. Rahall*		X	
Mr. Hansen	X			*Mr. Vento*		X	
Mr. Saxton				*Mr. Kildee*		X	
Mr. Gallegly				*Mr. DeFazio*			
Mr. Duncan	X			*Mr. Faleomavaega*	X		
Mr. Hefley				*Mr. Abercrombie*			
Mr. Doolittle	X			*Mr. Ortiz*	X		
Mr. Gilchrest	X			*Mr. Pickett*	X		
Mr. Calvert	X			*Mr. Pallone*			
Mr. Pombo	X			*Mr. Dooley*		X	
Mrs. Cubin	X			*Mr. Romero-Barcelo*	X		
Mrs. Chenoweth	X			*Mr. Underwood*		X	
Mr. Radanovich	X			*Mr. Kennedy*			
Mr. Jones	X			*Mr. Smith*		X	
Mr. Thornberry	X			*Mr. John*			
Mr. Cannon				*Mrs. Christensen*		X	
Mr. Brady	X			*Mr. Kind*		X	
Mr. Peterson	X			*Mr. Inslee*		X	
Mr. Hill	X			*Mrs. Napolitano*		X	
Mr. Schaffer	X			*Mr. Tom Udall*		X	
Mr. Gibbons	X			*Mr. Mark Udall*		X	
Mr. Souder	X			*Mr. Crowley*		X	
Mr. Walden	X						
Mr. Sherwood	X						
Mr. Hayes	X						
Mr. Simpson							
Mr. Tancredo	X			**TOTAL**	26	14	

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section states that the Act may be cited as the "American Land Sovereignty Protection Act".

Section 2. Findings and purpose

Section 2 makes eight findings which basically state that: (1) the constitutional power to make rules and regulations governing lands belonging to the United States lies with Congress; (2) actions in creating lands with international designations may affect the use and value of nearby or intermixed non-federal lands; and (3) actions by the President in applying international designations to lands owned by the United States may conflict with Congressional Constitutional responsibilities.

This section further states that the purpose of H.R. 883 is to assert the power of Congress over the management and use of lands belonging to the United States, to protect State powers not reserved to the federal government, and to ensure that no United States citizen suffers any diminishment or loss of individual rights or private property rights as a result of federal actions designating lands pursuant to international agreements.

Section 3. Clarification of congressional role in World Heritage Site listing

Section 3 amends the National Historic Preservation Act to compel the Secretary of Interior to require the legislative consent of Congress to any nomination of a property located in the United States for inclusion on the World Heritage List pursuant to the Convention Concerning the Protection of the World Cultural and Natural Heritage. The Secretary may not nominate a property until the Secretary makes a finding that existing commercially viable uses of the nominated land or land within ten miles of the nomination will not be adversely affected by inclusion on the World Heritage List, and must submit a report to Congress describing the impacts that inclusion on the World Heritage List would have on the natural resources associated with these lands. The Secretary is also required to obtain Congressional approval before assenting to the designation of any United States site on the World Heritage List as a Site in Danger under the World Heritage Convention. The Secretary must submit an annual report to Congress providing specified information on each World Heritage site within the United States.

Section 4. Prohibition and termination of unauthorized United Nations Biosphere Reserves

Section 4 amends the National Historic Preservation Act to prohibit federal officials from nominating any land in the United States for designation as a Biosphere Reserve. Existing United States Biosphere Reserves are terminated unless: (1) the Biosphere Reserve is specifically authorized in subsequently enacted law by December 31, 2000; (2) the designated Biosphere Reserve entirely consists of lands owned by the United States; and (3) a management plan for the Biosphere Reserve has been implemented which

specifically provides for the protection of non-federal property rights and uses. The Secretary of State is to submit an annual report to Congress providing specified information on each Biosphere Reserve in the United States.

Section 5. International agreements in general

Section 5 amends the National Historic Preservation Act to prohibit federal officials from designating any land in the United States for a special or restricted use under any international agreement unless such designation is specifically approved by law. "International agreement" means any treaty, compact, executive agreement, convention, or bilateral agreement between the United States and any foreign entity or agency of any foreign entity, having a primary purpose of conserving, preserving, or protecting the terrestrial or marine environment, flora, or fauna. The amendments made by this section do not apply to agreements established under the North American Wetlands Conservation Act, and conventions referred to in section 3(h)(3) of the Fish and Wildlife Improvement Act of 1978.

Lands owned by State or local governments may not be included within the boundaries of any area designated for a special or restricted use under any international agreement unless the designation is approved by a law enacted by the State or local government, respectively.

No privately owned lands may be included within the boundaries of any area designated for a special or restricted use under any international agreement unless the owner of the property concurs with such action in writing.

Section 6. Clerical amendment

This section updates a reference to the Committee on Resources in the National Historic Preservation Act Amendments of 1980.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(l)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 and Article IV, section 3 of the Constitution of the United States grant Congress the authority to enact H.R. 883.

COMPLIANCE WITH HOUSE RULE XI

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill pre-

pared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. Government Reform Oversight Findings. Under clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on this bill.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 7, 1999.

Hon. DON YOUNG,
Chairman, Committee on Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed costs estimate for H.R. 883, the American Land Sovereignty Protection Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 883—American Land Sovereignty Protection Act

CBO estimates that enacting H.R. 883 would have no significant impact on the federal budget. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. H.R. 883 contains no private-sector or intergovernmental mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

H.R. 883 would prohibit any federal official from nominating or designating any federal land for a special or restricted use under any international agreement unless specifically authorized by law, with certain exceptions. Moreover, the bill would make ineffective the designation of any area in the United States under such agreements unless the designation is specifically authorized either by written permission from the landowner (for private property), or by state or local law (for property owned by such governments). Designations of federal land would be ineffective as well, unless authorized by federal legislation enacted after enactment of H.R. 883 but before December 31, 2000. These provisions would affect designations of land under programs such as the World Heritage List and the Man and Biosphere Program of the United Nations. H.R.

883 would require the Secretaries of State and the Interior to submit annual reports to the Congress on each site designated under these programs. In addition, before nominating any federal property for the World Heritage List, the Secretary of the Interior would have to report to the Congress on the area's natural resources and the effects that the listing would have on existing or future uses of the site or other lands within a 10-mile range.

CBO estimates that the Department of State and the Department of the Interior (DOI) would incur minor expenses to collect information (such as budget and staffing data by site) and to submit annual reports to the Congress. DOI also might incur some costs (for data gathering and reporting) if it chooses to nominate any sites for the World Heritage List, but we do not expect these to be significant. The bill would have no impact on other federal agencies.

The CBO staff contact is Deborah Reis. This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

H.R. 883 contains no unfunded mandates.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE IV OF THE NATIONAL HISTORIC PRESERVATION ACT AMENDMENTS OF 1980

TITLE IV—INTERNATIONAL ACTIVITIES AND WORLD HERITAGE CONVENTION

SEC. 401. (a) [The Secretary] *Subject to subsections (b), (c), (d), and (e), the Secretary* of the Interior shall direct and coordinate United States participation in the Convention Concerning the Protection of the World Cultural and Natural Heritage, approved by the Senate on October 26, 1973 *(in this section referred to as the "Convention")*, in cooperation with the Secretary of State, the Smithsonian Institution, and the Advisory Council on Historic Preservation. Whenever possible, expenditures incurred in carrying out activities in cooperation with other nations and international organizations shall be paid for in such excess currency of the country or area where the expense is incurred as may be available to the United States.

(b) The Secretary of the Interior shall periodically nominate properties he determines are of international significance to the World Heritage Committee on behalf of the United States. No property may be so nominated unless it has previously been determined to be of national significance. Each such nomination shall include evidence of such legal protections as may be necessary to ensure preservation of the property and its environment (including restrictive

covenants, easements, or other forms of protection). Before making any such nomination, the Secretary shall notify the [Committee on Natural Resources] *Committee on Resources* of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

* * * * * * *

(d)(1) The Secretary of the Interior may not nominate any lands owned by the United States for inclusion on the World Heritage List pursuant to the Convention, unless—

(A) the Secretary finds with reasonable basis that commercially viable uses of the nominated lands, and commercially viable uses of other lands located within 10 miles of the nominated lands, in existence on the date of the nomination will not be adversely affected by inclusion of the lands on the World Heritage List, and publishes that finding;

(B) the Secretary has submitted to the Congress a report describing—

(i) natural resources associated with the lands referred to in subparagraph (A); and

(ii) the impacts that inclusion of the nominated lands on the World Heritage List would have on existing and future uses of the nominated lands or other lands located within 10 miles of the nominated lands; and

(C) the nomination is specifically authorized by a law enacted after the date of enactment of the American Land Sovereignty Protection Act and after the date of publication of a finding under subparagraph (A) for the nomination.

(2) The President may submit to the Speaker of the House of Representatives and the President of the Senate a proposal for legislation authorizing such a nomination after publication of a finding under paragraph (1)(A) for the nomination.

(e) The Secretary of the Interior shall object to the inclusion of any property in the United States on the list of World Heritage in Danger established under Article 11.4 of the Convention, unless—

(1) the Secretary has submitted to the Speaker of the House of Representatives and the President of the Senate a report describing—

(A) the necessity for including that property on the list;

(B) the natural resources associated with the property; and

(C) the impacts that inclusion of the property on the list would have on existing and future uses of the property and other property located within 10 miles of the property proposed for inclusion; and

(2) the Secretary is specifically authorized to assent to the inclusion of the property on the list, by a joint resolution of the Congress after the date of submittal of the report required by paragraph (1).

(f) The Secretary of the Interior shall submit an annual report on each World Heritage Site within the United States to the Chairman and Ranking Minority member of the Committee on Resources of the House of Representatives and of the Committee on Energy and Natural Resources of the Senate, that contains for the year covered by the report the following information for the site:

(1) An accounting of all money expended to manage the site.

(2) A summary of Federal full time equivalent hours related to management of the site.

(3) A list and explanation of all nongovernmental organizations that contributed to the management of the site.

(4) A summary and account of the disposition of complaints received by the Secretary related to management of the site.

* * * * * * *

SEC. 403. (a) No Federal official may nominate any lands in the United States for designation as a Biosphere Reserve under the Man and Biosphere Program of the United Nations Educational, Scientific, and Cultural Organization.

(b) Any designation on or before the date of enactment of the American Land Sovereignty Protection Act of an area in the United States as a Biosphere Reserve under the Man and Biosphere Program of the United Nations Educational, Scientific, and Cultural Organization shall not have, and shall not be given, any force or effect, unless the Biosphere Reserve—

(1) is specifically authorized by a law enacted after that date of enactment and before December 31, 2000;

(2) consists solely of lands that on that date of enactment are owned by the United States; and

(3) is subject to a management plan that specifically ensures that the use of intermixed or adjacent non-Federal property is not limited or restricted as a result of that designation.

(c) The Secretary of State shall submit an annual report on each Biosphere Reserve within the United States to the Chairman and Ranking Minority member of the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, that contains for the year covered by the report the following information for the reserve:

(1) An accounting of all money expended to manage the reserve.

(2) A summary of Federal full time equivalent hours related to management of the reserve.

(3) A list and explanation of all nongovernmental organizations that contributed to the management of the reserve.

(4) A summary and account of the disposition of the complaints received by the Secretary related to management of the reserve.

SEC. 404. (a) No Federal official may nominate, classify, or designate any lands owned by the United States and located within the United States for a special or restricted use under any international agreement unless such nomination, classification, or designation is specifically authorized by law. The President may from time to time submit to the Speaker of the House of Representatives and the President of the Senate proposals for legislation authorizing such a nomination, classification, or designation.

(b) A nomination, classification, or designation, under any international agreement, of lands owned by a State or local government shall have no force or effect unless the nomination, classification, or designation is specifically authorized by a law enacted by the State or local government, respectively.

(c) A nomination, classification, or designation, under any international agreement, of privately owned lands shall have no force or effect without the written consent of the owner of the lands.

(d) This section shall not apply to—

(1) agreements established under section 16(a) of the North American Wetlands Conservation Act (16 U.S.C. 4413); and

(2) conventions referred to in section 3(h)(3) of the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 712(2)).

(e) In this section, the term "international agreement" means any treaty, compact, executive agreement, convention, bilateral agreement, or multilateral agreement between the United States or any agency of the United States and any foreign entity or agency of any foreign entity, having a primary purpose of conserving, preserving, or protecting the terrestrial or marine environment, flora, or fauna.

DISSENTING VIEWS

H.R. 883 is unnecessary legislation which seeks to address a phantom problem of concern only to extremist, anti-environmental groups. Similar dubious legislation has failed in two previous Congresses, and H.R. 883 deserves the same fate.

H.R. 883 will require congressional authorization for any further participation in several voluntary international conservation programs. While we support responsible congressional oversight regarding these programs, this measure is an attempt to micro-manage and, in practical effect, preclude further U.S. participation in important conservation programs.

The World Heritage Convention—proposed by the United States under the Nixon Administration—is an international agreement which encourages signatory countries to voluntarily nominate culturally or historically significant sites within their borders for inclusion on the list of World Heritage Sites. To be eligible for listing, the sites must already be protected under the laws of the host country and nothing in the Convention alters the ownership or use of these lands. Sites are nominated because they are already being protected, not the other way around.

The Man and the Biosphere Program is a voluntary, cooperative program organized by the U.N. Educational, Scientific and Cultural Organization (UNESCO), the goal of which is to identify areas where entire ecosystems might be studied and then compared with similar ecosystems located in other countries. As with the World Heritage Convention, the Man and the Biosphere Program imposes no new land use restrictions and does not alter the ownership status of the land in any way.

In addition to effectively ending U.S. participation in these two specific programs, H.R. 883 would require Congressional authorization before any U.S. lands could be nominated for "special or restricted" use under any "international agreement," the primary purpose of which is to conserve, preserve, or protect the "terrestrial or marine environment, flora or fauna." As a result, the congressional approval mandate would also apply to a third agreement, the Convention on Wetlands of International Importance Especially as Waterfowl Habitat (known as the Ramsar Convention), and present a barrier to any future agreement.

Rather than subjugating Americans to United Nations hegemony, these programs have worked for decades to establish the United States as a world leader in efforts to identify, protect and preserve important environmental and historical sites around the globe. This legislation will effectively withdraw the United States from these programs and send a signal around the world that we no longer value such conservation efforts.

U.S. participation in these programs was a promise to other nations that we would continue our efforts to protect important sites

within our own borders and an invitation for them to follow our example. H.R. 883 breaks that important promise and revokes that invitation. What's worse, this legislation takes these steps in an effort to capitalize on misguided xenophobia on behalf of interests which seek to weaken U.S. efforts to conserve public lands and resources.

GEORGE MILLER.
NICK RAHALL.
BRUCE VENTO.
GRACE F. NAPOLITANO.
FRANK PALLONE.
ADAM SMITH.
JAY INSLEE.

APPENDIX

MAY 5, 1999.

Hon. BRUCE F. VENTO,
House of Representatives, Rayburn House Office Building, Washington, DC.

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 Nomi-

nations for 1981 states U.S. law at the time 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 U.S. nominations*. Recommendations on the proposed nominations are made to the Secretary by an interagency panel including members from the Office of the Assistant Secretary of 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 on Environmental Quality; the Advisory Council on Historic Preservation; and the Department of State." [1] (Emphasis added).

I was never included on the panel as the Department of State Representative. I was never invited to 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 same 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' U.N. 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.

[1] "Proposed U.S. Work Heritage Nominations for 1981, Public Notice," 45 FR 48717, July 21, 1980. You will find the same language in each annual notice.

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). It is 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. U.N. 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 made 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 U.N. 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 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 fall, that citizen's appeals to these committees (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,

JEANE J. KIRKPATRICK.

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