

Testimony in favor of HB 2587

Conservation Easements. Concern for the future of private property in Kansas.

My name is Phillis Setchell. I live in Topeka. My testimony is as a citizen.

I have two concerns about Conservation Easements in perpetuity. This bill is a step in the right direction.

There is a difference of worldview about land use and conservation. There is traditional stewardship vs. today's environmentalism.

Also, "in perpetuity" is forever. How would we know how the new 'owners' / overseer will steward the conservation easement? Without a sunset provision the very reason the original owner had for selling their easement being that it will conserve the land and protect it may not be the outcome.

To steward means to oversee and tend the land to protect it. Current environmentalism's philosophy is to, "Leave the land to itself – any interference by humans defiles it; nature will take care of itself."

Example: Look at current example of forestry standards. Forestry former best practices vs. current practices promoted by current environmentalists. Why are there now forest fires that are infernos, unlike the past?

Environmentalists running the Forests Service now allow nature to take its course, the forest to be untended because nature knows best; humans should stay out; no clear cutting, no dead wood clearing, no thinning to let more light in. Also, current oversight of forests has designated roadless areas, removing existing roads and bridges to deny human access which stopped fire-fighters access to put out the fires resulting in the death of all the animals in the path of the fire, and boiled fish in streams because of the intense heat.

Traditional private stewardship clears out dead wood that would intensify and feed a fire. Thin and clear cut, allow cutting to thin, providing a harvest of a renewable resource which provides affordable lumber for building and the result: sunlight allowed in produced a variety of plant growth that was sufficient for a larger number of animals and birds to thrive, but a dense growth prevents sunlight and therefore fewer plants or animals.

Fast forward to conservation easements in the Flint Hills that we all love and want to protect.

I was able to attend the Flint Hills Visioning Summit II in Topeka Tuesday, January 17th, 2012.

There were multiple breakout sessions, one of which was titled: **Conservation Easements – Preserving the Tallgrass Prairie for Future Generations**, where two couples expressed their wish of protecting their land when they were gone.

Another breakout session I sat in on was titled: **Sericea Lespedeza – A serious threat to the Tallgrass Prairie**.

The grass is aggressive and kills off native grass by blocking the sun with its profusion of leaves and prolific seeding. That session gave suggestions on how to try to keep it in check and eradicate what you could – but it was here to stay and would be a constant threat. The land owner would need persistent attention to keep it from taking over the prairie and Flint Hills.

So, my concerns with conservation easements that are contracted in perpetuity are two-fold. I have provided many handouts that address the threat to private property rights, which is a primary threat.

In the handout, *Land Use Control Tutorial*:

Ownership of land is the foundation of freedom in America. The hope of owning even a small plot of ground compelled our forefathers to brave incalculable risks crossing the ocean and challenging the wilderness. Land ownership was so cherished by our nation's founders that they guaranteed that government could not take private property without just compensation paid to the land owner. This founding principle has eroded dramatically over time, especially since 1976.

The article goes on to explain the many ways the principle of private land ownership on which the United States was founded is being eroded, one of which is permanent conservation easements.

HB 2587 allows revocation or modification by the request of the grantor of such easement and may be terminated or modified as stated in section (d) of HB 2587 which is needed to protect land owners from the abuses by those who are outside of Kansas who have designs on easements and are implementing plans in other states. Most of the handouts explain the threat and give examples of those who are fighting their CE contract to no avail.

The second concern is that those with oversight of the CE properties in the future when the properties are public lands and out of private owners control the new environmental oversight could prefer the land to be undisturbed, left to nature and not continue the vigilance necessary to protect the Flint Hills Tallgrass Prairie.

In perpetuity”” is a long time. It would be safer in private hands and for shorter time periods to overcome the unforeseen or objectionable.

The UN and Property Rights

Recommendation D.2

(a) Agricultural land..control

(c) Such control may be exercised through:

(ii) Direct intervention, e.g. the creation of land reserves and land banks, purchase, compensated expropriation and/or pre-emption, acquisition of development rights, conditioned leasing of public and communal land, formation of public and mixed development enterprises;

Recommendation D.3

(a) Excessive profits resulting from the increase in land value due to development and change in use are one of the principal causes of the concentration of wealth in private hands.

Recommendation D.4

(a) Public ownership of land cannot be an end in itself; it is justified in so far as it is exercised in favour of the common good rather than to protect the interests of the already privileged.

(b) Public ownership should be used to secure and control areas of urban expansion and protection; and to implement urban and rural land reform processes, and supply serviced land at price levels which can secure socially acceptable patterns of development.

Recommendation D.5

(b) Past patterns of ownership rights should be transformed to match the changing needs of society and be collectively beneficial.

(c)(v) Methods for the separation of land ownership rights from development rights, the latter to be entrusted to a public authority.

Please support HB 2587.

Want to Protect the Earth? Then Protect Private Property!

By J. David Breemer

Thursday, 22 May 2003 16:00

SUMMARY: Do we have to choose between protecting the environment and growing the economy? J. David Breemer from the Pacific Legal Foundation argues that we don't. In fact, he says, "environmental improvements happen because of, not in spite of, private property and free enterprise."

Earth Day, April 22, was a good occasion to revisit the question: Do we have to choose between protecting the environment and growing the economy?

Whether they'll admit it or not, a lot of environmentalists think that the answer is "Yes"--that more factories, jobs and homes and greater economic freedom, necessarily mean dirtier water, air and land. So they busy themselves fighting new construction projects, protesting industrial expansion and trying to micromanage how property owners can use their land.

But evidence from around the globe suggests their basic assumptions are off. The truth is, hindering the economy hurts the environment. In fact, there may be no greater environmental threat than a stagnant GDP.

At its extremes, this phenomenon was on display in the old Soviet Union and its colonies. While the economy was in suspended animation under communism, raw sewage went untreated in Poland; acid rain dissolved the gold roof of Cracow's famous Sigismund Chapel; East Germans lived under a permanent, dark fog of pollution; and Czechoslovakian sulfur dioxide concentrations were eight times U.S. levels.

During these same decades, the United States and other industrial countries were making great strides in purifying both water and air.

Recent economic research quantifies the relationship between health in the economy and the environment. Princeton University scholars have demonstrated that national environmental quality begins to improve once per capita income exceeds \$9,000. More importantly, their study finds that the greater the income, the better the environment.

The reasons for this correlation are simple: Economic growth fuels a popular demand for environmental protection and leads to technological innovations that minimize environmental harm. Indeed, another study by University of Chicago professor Don Coursey, found that for every 1 percent increase in income, the demand for environmental quality increases 2.5 percent. It should come as no shock that the income of Sierra Club environmentalists is much higher than the national average.

Economic growth is critical for advancing material and environmental well-being, but such growth does not occur spontaneously. An economy that is continually creating more jobs and opportunities requires a legal system that respects and protects private property rights. When these rights are guaranteed, individuals have an incentive to create and build. Certainty of ownership facilitates the transfer of resources to those who will put them to the most economically efficient and socially desirable use. When these rights are absent, as they are in most third world countries, investment dries up and governments strive in vain to secure national economic health. No one has the time, will or means to fix environmental problems.

Uncertain private property rights imperil the environment. This is because secure ownership carries incentives to care for property, whether it's a field, a forest, a farm or a factory. Experiments in collective property ownership in America and abroad have underscored this truth time and again. Where will you find more litter -- on your private driveway or the public highway? Or compare rentals with owner-occupied homes. Which are more likely to be clean, tidy and well-maintained, signaling the residents' engagement, pride and

concern?

More environmentalists need to open their eyes to the fact that environmental improvements happen because of, not in spite of, private property and free enterprise. If they really want to protect the earth, they should support, not subvert, private property rights--and export this fundamental doctrine around the world. By doing so, they will help feed the hungry, house the poor, and generate the public demand and tools necessary for cleaner air, land and water.

J. David Breemer is an attorney with Pacific Legal Foundation. At a news conference held on April 21 outside the Seattle office of the U.S. Environmental Protection Agency, PLF released its "Earth Day List of Top Environmental Lies," providing factual evidence to counter false claims by environmentalists in five major areas. Click on the press release link on PLF's homepage (<http://www.pacificlegal.org/>) to read those environmental lies.

Established in 1973, PLF provides a voice in the courts that speaks for less government and the preservation of free enterprise, private property rights and individual liberties. PLF is the oldest, largest and, in the words of the Washington Post, "perhaps most influential" public interest law foundation of its kind. PLF is a tax-exempt, charitable organization under Section 501(c)(3) of the Internal Revenue Code and relies entirely upon private donations for its support. To learn more about PLF's legal program, visit our web site at <http://www.pacificlegal.org/>.

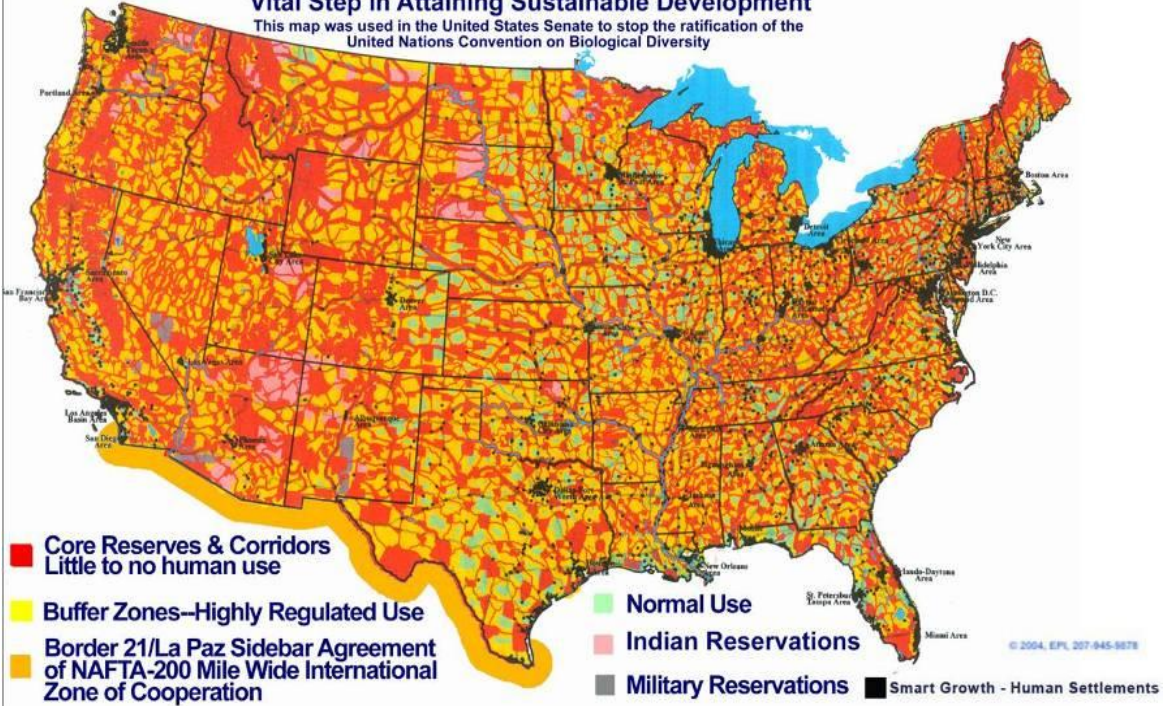
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Simulated Reserve and Corridor System to Protect Biodiversity As Required by the UN Covention on Biological Diversity, Wildlands Project, UN and US Man and Biosphere Programs and World Heritage Program as a Vital Step in Attaining Sustainable Development

This map was used in the United States Senate to stop the ratification of the
United Nations Convention on Biological Diversity



- Core Reserves & Corridors**
Little to no human use
- Buffer Zones--Highly Regulated Use**
- Border 21/La Paz Sidebar Agreement of NAFTA-200 Mile Wide International Zone of Cooperation**
- Normal Use**
- Indian Reservations**
- Military Reservations**
- Smart Growth - Human Settlements**

Taken From: The United Nations Convention on Biological Diversity, Article 8a-e; United Nations Global Biodiversity Assessment, Section 13.4.2.2.3; US Man and the Biosphere Strategic Plan, UN/US Heritage Corridor Program, "The Wildlands Project," WildEarth, 1992. Also see Science, "The High Cost of Biodiversity," 25 June, 1993, pp 1968-1871 and the Border 21 Sidebar of NAFTA. The very high percentage of buffer zone in the West is due to the very high percentage of federal land. NOTE: Do not use this map for real estate purposes.

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