

General Talking Points

- Despite claims that the bill is “non-controversial” the House and Senate continue to take extraordinary measures to avoid open debate and discussion of amendments on this expansive package of bills.
- The Majority Forced a rare Sunday vote in January to avoid consideration of amendments.
- 144 members of the House opposed the measure and defeated it on the Suspension Calendar (no amendments allowed) last week.
- The bill is opposed by more than 150 taxpayer, property rights, recreation, and business groups including the U.S. Chamber of Commerce.
- The lands bill is massive collection of unique provisions, many quite controversial and without a single effort to offset its new spending.
- The bill threatens access to American energy—traditional and renewable.
- The threats posed to American energy dependence have grown since the Senate was last forced to consider S. 22.
- With nearly \$11 trillion in debt, Congress is about to authorize more than \$10 billion in frivolous new spending (over \$900 million in direct).
- The Bill is a major threat to our Constitutional property rights.
- Without prioritization, Congress will either break its earlier commitments for our national parks system or ignore the promises it is making in this bill.
- Even “miscellaneous” and “non-controversial” provisions in the bill may pose a threat to American families (Fossil collecting criminalization).

- The American people deserve a full debate on each of the 170 plus measures individually, and their representatives should have the right to offer amendments on their behalf.

Despite claims that the bill is “non-controversial” the House and Senate continue to take extraordinary measures to avoid open debate and discussion of amendments on this expansive package of bills.

The measure is 1,248 pages, including over 170 unique bills that will cost taxpayers over \$10 billion (\$915 million in direct spending).

It is opposed by the United States Chamber of Commerce, leading taxpayers groups, property rights advocates, and recreation interests across the nation (over 150 have signed letters in opposition).

Yet, in January, the Majority Leader forced a rare Sunday vote to block amendments. This was the first time in at least forty years that the Senate had voted on the first weekend of a new Congress (especially galling given the economic and fiscal crises).

After considerable behind-the-scenes maneuvering, House leadership attempted to force passage on its Suspension Calendar this past week—which again prohibited amendments.

House Natural Resources Ranking Member Representative Doc Hastings described the forty minutes given to debate the package this way: “With over 170 bills in this omnibus package, that allows just seven seconds--seven seconds--to debate each bill. And of these 170 plus bills, 100 of them have never been passed by the House.”¹

The measure failed, with 144 members of the House opposing the bill.

And once it has been rushed through the Senate, it appears the House and Senate Majority are conspiring to railroad it past House members—again with NO amendments.

The lands bill is massive collection of unique provisions, many quite controversial and without a single effort to offset its new spending. It includes:

- 10 new National Heritage Areas

¹ Hastings, Representative Doc, United States House of Representatives; Congressional Record H-3279, March 11, 2009.

- 3 new units of the National Park Service
- 14 studies to create or expand national parks (\$9 billion maintenance backlog)
- 80 wilderness area designations or expansions/ 2.2 million acres of federal land. This is the largest expansion of federal wilderness acres in a generation (wilderness designation shuts down all energy exploration and most human activity).
- One such wilderness area—the Pictured Rocks National Lakeshore Wilderness—is opposed by the Congressman whose district entirely encompasses the proposed area. Though Rep Stupak supports the overall lands package, he has been denied an opportunity to strike the provision. He notes that while the wilderness designation is supported by outsiders, it does not have the endorsement of the impacted communities (who have received similar assurances in the past).
- 92 wild and scenic river (WSR) designations, 1,100 miles of shoreline. This includes killing a planned major Liquefied Natural Gas (LNG)port in Massachusetts. The Wild and Scenic Rivers Act includes eminent domain authority and prohibits the construction of transmission lines, hydroelectric, and most roads or bridges.
- 6 National Trails designations (the original Trails Act includes eminent domain authority)

Self Inflicted Wounds: The bill threatens access to American energy—traditional and renewable.

- It includes 19 specific instances where federal lands are permanently withdrawn from future mineral and geothermal leasing (same language President Clinton used to shut down energy exploration in the closing days of his presidency).

- Over 3 million acres impacted by the permanent withdrawal provisions.
- Wyoming Range withdrawal alone locks up at least 8.8 trillion cubic feet of natural gas and over 300 million barrels of oil.² (A National Petroleum Council estimates rates it at 12 trillion cubic feet).
- The Wyoming withdrawal is equal to nearly **twice** as much as all American homes use in a year (4.7 tcf).³ This one field could provide all of Oklahoma's natural gas needs for 14 years (Oklahoma consumers used 618 bcf in 2006).
- Each of the 19 withdrawal provision (3 million acres) also excludes future geothermal leasing. 90 percent of naturally occurring geothermal energy is on federal lands in the West. Studies performed by the Bureau of Land Management confirm geothermal potential on many of the designation *in this bill*.
- Also includes 92 National Wild and Scenic River designations covering 1,100 miles that will: prohibit any pipeline or transmission crossing, empower lawsuits against any energy exploration in the river basin, and block construction of any hydroelectric (clean and renewable) generation. The bill includes a measure to block construction of a major LNG port in Massachusetts.
- The bill permanently codifies the Clinton era National Landscape Conservation System (NLCS) now under investigation for improper collusion with anti-energy lobbyists. The NLCS takes away historic multiple-use policy (recreation, energy, and conservation) for nearly 30 million acres of federal land.

The threats posed to American energy dependence have grown since the Senate was last forced to consider S. 22.

^{2 2} Bureau of Land Management: Statement of Luke Johnson, Deputy Director; Testimony before Senate Energy & Natural Resources Committee, Subcommittee on Public Lands and Forests; February 27, 2008

³ Energy Information Agency: "U.S. Natural Gas Residential Consumption (Million Cubic Feet)"
<http://tonto.eia.doe.gov/dnav/ng/hist/n3010us2A.htm>

Secretary Salazar has withdrawn major leases (77) in Utah that were the subject of a coordinated lawsuit brought by extreme anti-energy groups.

Secretary Salazar has withdrawn 8 energy leases in Wyoming.

Secretary Salazar has further delayed the following: 1) Offshore drilling (“need more study”) and the development of oil shale (‘needs more testing).

The bill is another direct challenge from Congress to President Obama’s pledge to clean up the earmark process.

Last week, President Obama pledged to eliminate earmarks that did not serve a legitimate public purpose. He also said that each earmark must be scrutinized at public hearings. Senators may want to ask themselves how many Americans would describe earmarks like a \$3.5 million birthday bash for St. Augustine Florida a legitimate public purpose. The bill includes:

- An estimated \$1 billion for a water project in California for the restoration of 500 salmon.
- \$5 million for a Wolf Compensation and Prevention Program
- \$3.5 million to celebrate the 450th Anniversary of St Augustine, Florida in 2015.
- \$250,000 for the Park Service to study whether Alexander Hamilton’s boyhood estate at St. Croix in the U.S. Virgin Islands is suitable for designation as a new National Park unit.
- \$5 million for the National Tropical Botanical Garden to operate and maintain gardens in Hawaii and Florida.
- Millions for a “road to nowhere” through a wildlife refuge in Alaska to connect two towns with a combined population of less than 900. The

federal government already spent \$37 million for an all weather hovercraft (and spare engine) and to update local clinic.

- A new ocean exploration program that is tasked with conducting “scientific voyages to locate, define, and document historic **shipwrecks.**”
- \$12 million for the Smithsonian to build a new greenhouse in suburban Washington, DC for a national orchid collection.
- A full waiver for a Cave Institute in New Mexico to be fully funded by American taxpayers.

Property Rights: The Bill Threatens a Major Constitutional Right

Though there is little transparency, it is estimated that the federal government owns 653 million acres, 1 out of 3 acres in the US, and 1 of 2 in the West.

10 new **National Heritage Areas**- With Park Service assistance and funding, these subsidize a local group to change local land use regulations. This can dramatically impacts homeowners, small businesses, farmers, and utilities.

80 **Wilderness Areas** totaling 2.2 million acres. Their reach goes far beyond the actual wilderness area. Recent court decisions have extended wilderness areas restrictions far beyond the borders designated by Congress.

92 **National Wild and Scenic River** designations cover 1,100 miles of shoreline. The Wild and Scenic Rivers Act authorizes significant land purchase and grants eminent domain power. Anyone living or doing business within the larger collection basin is subject to regulation, lawsuit and harassment.

6 **National Trails** designations- The underlying National Trails Act also grants land acquisition and eminent domain authority.

The bill is opposed by over 100 property rights organizations and advocates.

According to a coalition of leading nationwide property rights advocates: “This (bill) is a serious threat to all property owners in this country. Over the past several decades, there has been a proliferation of programs dedicated to the preservation of land that has extended the grasp of the federal government and its influence over private property rights. As a result of this legislation, landowners will see their property value diminish due to increased land use regulations and outdoor recreation enthusiasts will find new restrictions on both public and private land.

The experts go on to say, “Legislation should never arbitrarily attempt to seize land from the public and restrict its use, as the omnibus package would.”⁴

Without prioritization, Congress will either break its earlier commitments for our national parks system or ignore the promises it is making in this bill.

Consider the responsibilities already given to the National Park Service by Congress:

84+ million acres of land under management of the National Park Service;

391 units

54 National Wilderness Areas/44 million acres

15 National Wild and Scenic Rivers/2,451 miles

40 National Heritage Areas

28 National Memorials

4 National Parkways

120 National Historic Parks

20 National Preserves and Reserves

24 National Battlefields

⁴ Property Rights Alliance: “Coalition of 111 Organizations Urges Congress to Oppose of Land Grab Bill,” Last Accessed on March 15, 2009, <http://www.propertyrightsalliance.org/index.php?content=SenLand08>.

18 National Recreation Areas
74 National Monument Areas
10 National Seashores
4 National Lakeshores
3,565 miles of National Scenic Trails
12,250 miles of unpaved trails
46 miles of Canadian border/285 miles of the Mexican to patrol/manage
27,000 historic structures
7,580 administrative and public use buildings
26,830 campsites
8,505 monuments and statues
505 dams
1,804 bridges and tunnels
8,500 miles of road to maintain
680 water treatment and wastewater systems
272 million visits annually⁵

The National Park Service faces a \$9.6 billion maintenance backlog. So severe, the backlog has grown by over \$400 million in nine months congressional investigation in 2008. This includes:

The USS Arizona (where 1,117 American sailors were killed) faces a backlog of \$33.4 million. The visitor's center is sinking.

Gettysburg National Battlefield (51,000 casualties in three days) faces a \$29 million backlog.

Statue of Liberty Park-- \$197 million backlog.

⁵ National Park Service website: "Quick Facts," Last Accessed on March 12, 2009, <http://www.nps.gov/aboutus/quickfacts.htm>.

Grand Canyon National Park- \$299 million backlog.

The National Mall in Washington, DC- over \$700 million backlog.

Even “miscellaneous” and “non-controversial” provisions in the bill may pose a threat to American families.

For instance, in a provision buried deep within S. 22 (found on page 475) is a provision that will allow the Secretary of Interior to determine if a fossil collection is appropriate, and establishes a penalty of up to five years for violations and allows for seizures of any vehicles carrying the material and condemnation of property.

A provision to “codify” an existing agency program at the Bureau of Land Management (National Landscape Conservation System) will in fact consolidate power over nearly 30 million acres of land into the hands of a few elite anti-energy, anti-recreational bureaucrats. This jurisdiction will extend to wilderness study area lands—many of which have been deemed “non-suitable” for wilderness protection by extensive BLM analysis. The NLCS is now under investigation for improper collusion with outside environmental groups, but will receive permanent authorization in this bill.

Finally, the bill makes authorizations pursuant to existing law--- existing law that grants federal bureaucrats the authority to forcibly take your land. Proponents will say this bill is great for tourism and “harmless.” For a federal government that already own more than 650 million acres, this is quite a claim.

Government Accountability Office Findings on Mismanagement of Public Lands

- **This Bill Adds \$10 Billion in New Spending to the Department of the Interior During a Time When the Department is Experiencing Significant Management Concerns According to Both the Government Accountability Office and the Department of Interior Inspector General**
- **The Massive Maintenance Backlog Continues to Grow**
- **Poor Management Leads to Public Safety Concerns and Law Enforcement Management Deficiencies**
- **Incompetent Forest Fire Management Despite a Three-Fold Spending Increase Since 1999**
- **High Prevalence of “Waste and Fraud” in the Procurement and Federal Assistance Process**
- **Numerous Other Deficiencies Identified Within DOI**
- **Congress Should Not Add \$10 Billion in New Commitments for DOI**

On March 3, 2009, before the House Appropriations Subcommittee on Interior, Environment, and Related Agencies, the Government Accountability Office (GAO) and the Department of Interior Inspector General (IG) delivered testimony on “major management challenges” facing the Department of the Interior (DOI).

At no point during the testimony did the two organizations charged with maintaining oversight of DOI suggest Congress should add more commitments and costs to DOI. In fact, it was made abundantly clear that DOI cannot even manage current responsibilities adequately.

The Massive Maintenance Backlog Continues to Grow

Maintenance backlogs within agencies of the Department have grown by 60 percent from 2003 to 2008. GAO estimates the total figure now stands at between \$13.2 billion and \$19.4 billion. In contrast, the entire DOI budget in 2007 was \$10.965 billion – or between 83 and 56.5 percent of the maintenance backlog.⁶

According to GAO, “Although Interior has made a concentrated effort to address its deferred maintenance backlog, the dollar estimate of the backlog has continued to escalate.”

This backlog is classified into four categories by GAO:

- Roads, bridges, and trails (backlog between \$6.41 and \$9.37 billion);
- Irrigation, dams, and other water structure (between \$2.4 and \$3.59 billion);
- Buildings, including historic buildings (between \$2.38 and \$3.48 billion);
- Other structures, including recreation sites and fisheries (between \$2 and \$2.93 billion).

DOI is struggling to manage its more than 500 million acres of federal land, more than 1.8 billion acres of the Outer Continental Shelf, and its 70,000 employees working in 2,400 different locations,⁷ yet Congressional

⁶ 2006, 2007, and 2008 Budget by Account, Department of the Interior, <http://www.doi.gov/budget/2008/data/pdf/DOIAccounts.pdf> - accessed March 14, 2009

⁷ A sample includes: 1) Nearly 400 National Park Service units covering 79 National Historic Sites, 74 national monuments, 18 national recreation areas, 18 national preserves, and 40 National Heritage Areas; 2) Over 800 BLM managed federally recognized areas; and 3) and over 520 US Fish and Wildlife Service National Wildlife Refuges.

leadership intends to add 3 million acres and dozens of new commitments to DOI in this massive lands omnibus bill.

In one instance of mismanagement, GAO points out that FWS is responsible for 132,000 acres of farmlands – most of which it doesn't manage. However, even though these farmlands are “unwanted,” FWS cannot sell these lands because they are now part of the National Wildlife Refuge System. So FWS owns thousands of acres of farmland it doesn't manage and typically doesn't even inspect every five years (13 percent of these lands are inspected annually).

Poor Management Leads to Public Safety Concerns and Law Enforcement Management Deficiencies

In describing the Interior maintenance backlog, GAO noted: “The deterioration of facilities can impair public health and safety, reduce employees' morale and productivity, and increase the need for costly major repairs or early replacement of structures and equipment.”

Other groups have made similar observations. According to the National Parks Conservation Association, “From neglected trails to dirty or deteriorating facilities, national parks across the country are showing the strain of budget shortfalls in excess of \$600 million annually... The visitor center at the USS Arizona Memorial in Hawaii is overcrowded, its foundation is cracking, and it is sinking... A shortage of staff and funding limits the ability of the Park Service to maintain campgrounds at Nevada's Great Basin National Park. Broken benches, dilapidated buildings, and a crumbling boardwalk greet visitors to Riis Park in Gateway National Recreation Area in New York and New Jersey. Chaco Culture National Historical Park in New Mexico lacks funding to maintain and repair the park's 28 miles of backcountry trails. As a result, trails are damaged by heavy use and weather, compromising the experiences of visitors and the integrity of cultural resources and nearby natural resources that become trampled when visitors cannot follow the trails.”⁸

⁸ “Top 10 Reasons to Reinvest in America's National Park Heritage: Reason 9, Maintenance,” National Parks Conservation Association, http://www.npca.org/what_we_do/ten_most_endangered/2005/reason9.html - accessed March 16, 2009

According to Acting IG Mary Kendall, “[O]ur work has documented decades of maintenance, health and safety issues that place DOI employees and the public at risk.”

Ms. Kendall listed the following examples where poor management has led to safety concerns:

- The U.S. Park Police, responsible for maintaining security at national icons, “failed to establish a comprehensive security program and lacks adequate staffing and formal training for those responsible for protection;”
- “Opportunities for improvement remain in the security of our Nation’s dams;”
- “[The Department’s Office of Law Enforcement, Security, And Emergency Management] still struggles with issuing centralized policy and providing effective oversight [of DOI law enforcement];”
- “[I]n 2006, we found an NPS visitor center that was literally falling apart, severe deterioration at BIE elementary and secondary schools, and FWS employees working for almost seven years in two building that were condemned and closed to the public;”
- “We identified abandoned mines where members of the public had been killed, injured, or exposed to dangerous environmental contaminants.”

People are at risk of being “killed, injured, or exposed to dangerous environmental contaminants” by abandoned mines and Congress is prioritizing a massive lands bill that will only make it more difficult to prioritize true national concerns in DOI. Why not increase funds for the IG and other accountability measures within DOI instead?

Incompetent Forest Fire Management Despite a Four-Fold Spending Increase Since 1999

GAO points out that forest fire management, despite a three-fold increase in appropriations between 1999 and 2007 (from \$1 billion in 1999 to \$3 billion in 2007), remains inadequate. In 2008, total appropriations for fire forest management were \$4.46 billion.⁹ Instead of decreasing, the average annual acreage burned each year has increased by 70 percent since the 1990s.

The first reason listed for this increase is “an accumulation of fuels resulting from past land management practices...”

GAO has identified the need for long-term alternative strategies to reduce fuel loads (hazardous vegetation that serves as lighter material for forest fires) since 1999. In 2005, GAO reiterated this concern. As of January 2009, DOI officials could not predict when they would finalize such a strategy.

In 2007, GAO could not identify among DOI forest fire management either “clearly defined cost-containment goals or... a strategy for achieving those goals.” In other words, DOI has not managed to even develop goals for maximizing fire management and prevention funds.

According to the U.S. Fire Administration, there were 769,000 fires in 2007 that caused 45 deaths, 650 injuries, and \$790 million in losses.¹⁰

Prioritizing funds and resources to ensure our federal lands are not poorly maintained will prevent them from becoming tinderboxes and forest fire enhancers.

High Prevalence of “Waste and Fraud” in the Procurement and Federal Assistance Process

The IG “identified procurement and financial assistance as one of the top management challenges for the Department... procurement, contracts, and grants have historically been subject to considerable fraud and waste and... their management is a continuing challenge.”

⁹ Includes \$3.27 billion for USDA Forest Service and \$1.19 billion for Bureau of Land Management, <http://apps.crs.gov/products/rl/html/RL33990.html>

¹⁰ “Outdoor and Other Fires,” U.S. Fire Administration, <http://www.usfa.dhs.gov/statistics/national/outside.shtm> - accessed March 16, 2009

DOI procurement and financial assistance awards in FY08 exceeded \$5 billion, or ¼ of the DOI budget. \$3.5 billion was awarded in contracts to over 19,000 contractors and more than \$1.7 billion in federal assistance went to more than 2,300 recipients.

The IG also found problems throughout the solicitation process: “The four areas of repeated observations are **lack of pre-solicitation planning**, a **lack of competition**, **selection of inappropriate award vehicles**, and **poor administration of contracts and grants**.”

According to Acting IG Mary Kendall, “Financial management has remained a top challenge for the department...,” “[And] our work has documented decades of maintenance, health and safety issues that place [Interior] employees and the public at risk.”

Why is Congress seeking to authorize \$10 billion in new federal spending when it has yet to ensure proper stewardship of current appropriations totaling more than \$5 billion in federal contracts and financial assistance?

Numerous Other Deficiencies Identified Within DOI

GAO and the IG identified numerous other concerns with other DOI agencies:

- BIA Land-in-Trust process 2006 recommendations to include hard deadlines and to make it easier for affected entities and the public to comment have yet to be implemented;
- Audits for the management of \$3.4 billion in trust funds for Native Americans continue to have “a material weakness and significant deficiency;”
- It costs \$1 billion annually to run the Native American schools – an average of \$20,000 per Native American student (50,000 in total) – and yet BIA “has failed to consistently perform background checks on Indian school employees and... is woefully unprepared to address potential violence at... educational facilities;”

- With a large increase in oil and gas leases being awarded recently, BLM is struggling to ensure proper oversight and environmental mitigation of these leases and also does less to encourage development of its leases than some states and private landowners;
- BLM grazing fees for were \$12 million in FY04 even though the costs to implement the grazing program were \$58 million; and
- DOI Networks and data are not reasonably protected from information technology threats.

There are many other concerns listed in the testimony of GAO and the IG. Shouldn't Congress be focusing on these issues – many of them reoccurring or long-standing – instead of increasing federal DOI commitments?

Congress Should Not Add \$10 Billion in New Commitments for DOI

In light of these observed deficiencies by two offices charged with maintaining oversight of DOI, why is Congress trying to pass the largest federal lands bill in this generation?

Interior is struggling to maintain its existing obligations and has significant weaknesses in its management systems that have hurt performance throughout the entire agency.

The American people would be better served if Congress focused scarce federal resources and oversight on at least some of concerns raised by GAO and the IG. Many suggested reforms would likely save taxpayers and DOI millions, if not billions, of dollars and allow for current DOI commitments to be well-maintained for the more than 500 million Americans who visit federal lands managed by DOI every year.

AMENDMENTS TO THE LANDS BILL

1. Amendment **#680** - Bar new construction (not including necessary replacement construction) until all current sites are certified by the Secretary as fully operational, ensuring full access by the public, and posing no health or safety threat
2. Amendment **#679** – Strike all provisions restricting renewable energy development on public lands
3. Amendment **#677** – Require annual report detailing total size and cost of federal property
4. Amendment **#675** – Prohibit the use of eminent domain for any provision authorized in the bill
5. Amendment **#682** – Clarify Section Subtitle D to protect park visitors from criminal penalties for taking stones that may contain insignificant fossils
6. Amendment **#683** – Strike out frivolous waste in the bill (St. Augustine birthday party; botanical gardens in Hawaii and Florida; California salmon restoration; Alexander Hamilton’s boyhood estate in the Virgin Islands; and shipwreck exploration program)

Amendment 680 – Prohibits new construction by the National Park Service until existing park sites, structures, trails, and transportation infrastructure are open and accessible to the general public and pose no health or safety risk.

- America's national parks are threatened by a staggering maintenance backlog.
- Despite unprecedented funding, the situation is growing worse by the day.
- The crown jewels of our National Parks system are crumbling (Statue of Liberty, USS Arizona)
- Americans are increasingly being denied access to their national parks because of the growing maintenance backlog.
- The health and safety of parks' visitors and employees is threatened by the growing maintenance backlog.
- Congress' appetite for new parks and earmarks threaten previous commitments to our national parks.
- Similarly, the agency has proven it cannot be relied up to prioritize the maintenance of existing obligations.
- Until Congress and the Administration prioritize the maintenance of existing national parks' obligations, the problem will continue to grow worse.
- This amendment is simple—no expensive new construction projects until Congress first protects our most cherished national parks.

Amendment 680 – Prohibits new construction by the National Park Service until existing park sites, structures, trails, and transportation infrastructure are open and accessible to the general public and pose no health or safety risk.

Throughout the nation, America's national parks are crumbling.

Many sites are in terrible disrepair; they are often closed to the American public and pose a serious health and safety risk to visitors and employees of the National Park Service.

The massive lands bill threatens to make this situation worse by adding new responsibilities at a time when the Park Service is unable to keep up with the demands of the existing system.

It will also diminish the impact of the recent stimulus funds intended to help the NPS reduce its nearly \$10 billion maintenance backlog

This amendment will ensure that the American people continue to enjoy access to their national treasures, by requiring that the park service focuses its construction efforts on existing threats to public access and safety.

America's national parks are threatened by a staggering maintenance backlog.

According to the Congressional Research Service, the Park Service backlog reached \$9.6 billion in FY 2007, having more than doubled since FY 1999.¹¹

A recent memo prepared by the Facility Management Division of the National Park Service reveals at least 10 states where NPS maintenance backlogs exceed \$100 million. At least twenty states have facilities with deferred maintenance exceeding \$50 million¹² (this excludes over \$4 billion in NPS road/bridge backlogs).

¹¹ Vincent, Carol Hardy, Congressional Research Service: National Park Management; August 15, 2008.

¹² Summary Provided to Congressional Research Service: NPS Asset Management Challenge, December 11, 2007.

Despite historic appropriation levels, a recent congressional inquiry revealed that the NPS maintenance backlog grew by \$400 million during a nine month period last year.¹³

On top of all that Congress continues to authorize, the NPS must manage the following:

- 27,000 historic structures
- 7,580 administrative and public use buildings
- 26,830 campsites
- 8,505 monuments and statues
- 505 dams
- 1,804 bridges and tunnels
- 8,500 miles of road to maintain
- 680 water treatment and wastewater systems
- 84+ million acres of land under management of the National Park Service;
- 391 units
- 54 National Wilderness Areas/44 million acres
- 15 National Wild and Scenic Rivers/2,451 miles
- 40 National Heritage Areas
- 28 National Memorials
- 4 National Parkways

¹³ National Park Service: Excel Spreadsheet Prepared for Senator Tom Coburn, October 27, 2008.

- 120 National Historic Parks
- 20 National Preserves and Reserves
- 24 National Battlefields
- 18 National Recreation Areas
- 74 National Monument Areas
- 10 National Seashores
- 4 National Lakeshores
- 3,565 miles of National Scenic Trails
- 12,250 miles of unpaved trails
- 46 miles of Canadian border/285 miles of the Mexican to patrol/manage
- 272 million visits annually

The crown jewels of our National Parks system are crumbling.

The USS Arizona (where 1,117 American patriots lost their lives in the savage Pearl Harbor attack) now faces a maintenance backlog of \$33.4 million. “The visitor center at the USS Arizona Memorial in Hawaii is sinking and may cost as much as \$20 million to repair—a cost that exceeds the entire annual budget for the seven national park sites in the state.”¹⁴

The Gettysburg National Battlefield, site of the 51,000 American casualties, now faces \$29.4 million backlog.

¹⁴ National Parks Conservation Association; “Overwhelming Backlogs, Maintenance Needs;” ast accessed on February 3, 2009; http://www.npca.org/what_we_do/visitor_experience/backlog/maintenance.html.

Perhaps the greatest symbol of our nation, Statue of Liberty Park faces a \$196.9 million maintenance backlog.¹⁵

Grand Canyon National Park faces a backlog of \$299.2 million.¹⁶

In Montana, Glacier National Park faces a staggering maintenance backlog of \$400 million, including the stabilization of historic structures.¹⁷ A former NPS official described the park as “bankrupt.”¹⁸

A leading parks advocacy group places the Petrified Forest National Park among the most ten most endangered parks in America¹⁹.

Americans are increasingly being denied access to their national parks because of the growing maintenance backlog.

According to a recent article in the Arizona Republic, Grand Canyon Park (10 million visitors annually), “Popular Grand Canyon trails are badly eroded, leading to more and more closures.”²⁰

According to Representative Rob Bishop (UT), Dinosaur National Monument is largely inaccessible due to its overwhelming backlog: The center is designed “so a kid can go in there and actually see within the mountainside the fossils that are still there and see what scientists say is the beginning and be able to put them together. Unfortunately, no one has been able to access this building for the last 10 years because we don't have enough money to fix this building, which has been condemned.”²¹

The health and safety of parks' visitors and employees is threatened by the growing maintenance backlog.

¹⁵ National Park Service: Excel Spreadsheet Prepared for Senator Tom Coburn, October 27, 2008.

¹⁶ National Park Service: Excel Spreadsheet Prepared for Senator Tom Coburn, October 27, 2008.

¹⁷ National Parks Conservation Association: “Overwhelming Backlog,” Last accessed on March 13, 2009, http://www.npca.org/what_we_do/visitor_experience/backlog/maintenance.html.

¹⁸ Jamison, Michael, The Missoulian: “Visits, and bills, rise - Funding cuts, more tourists strain infrastructure,” <http://www.missoula.com/news/node/1721>.

¹⁹ National Parks Conservation Association: “Group Names Annual List of America's Ten Most Endangered National Parks,” April 4, 2001, http://www.npca.org/media_center/press_releases/2001/page-27598999.html.

²⁰ The Arizona Republic, Editorial: “A Chasm in Funding,” December 29, 2008, <http://www.azcentral.com/arizonarepublic/opinions/articles/2008/12/29/20081229mon1-29.html>.

²¹ Bishop, Representative Rob, Congressional Record, Page H 3284, March 11, 2009.

According to the Inspector General of the Department of the Interior, “Financial management has remained a top challenge for the department,” “[And] our work has documented decades of maintenance, health and safety issues that place [Interior] employees and the public at risk.”²²

A recent report by the Coalition of National Park Service Retirees found, “widespread evidence of major problems that will be evident - including decreased safety for visitors, longer emergency response times, endangerment of protected resources, and dirtier and less well-maintained parks - and that the problems will only grow worse in the coming years.”²³

Examples of impact on parks’ visitors include:

At the Grand Canyon, “The cross-canyon waterline is deteriorating so badly that it had 30-some leaks this year and is in danger of failing entirely.”²⁴

At Yellowstone, “about 10,000 gallons of raw sewage leaked from a broken pipe and may have flowed into a trout-spawning stream in Yellowstone National Park.”²⁵

At Carlsbad Caverns, maintenance needs were so pressing at one point that sewer lines were actually leaking into the historic caves. Carlsbad superintendent Benjamin said: “Believe me, if there's sewage dripping down into that cavern, people are not going to believe we're doing a good job.”²⁶

Congress’ appetite for new parks and earmarks threaten previous commitments to our national parks.

²² Kendall, Mary, Acting Inspector General of the Department of the Interior: “Testimony before House Committee on Appropriations, Subcommittee on Interior,” March 3, 2009.

²³ Coalition of National Park Service Retirees: “A Reality Check- What Visitors Will To America’s National Parks Will Experience During Summer 2006,” June 15, 2006, <http://www.npsretirees.org/cnpsr/reality-check-summer-survey>.

²⁴ The Arizona Republic, Editorial: “A Chasm in Funding,” December 29, 2008, <http://www.azcentral.com/arizonarepublic/opinions/articles/2008/12/29/20081229mon1-29.html>.

²⁵ New York Times: National Brief, June 9, 2001, <http://query.nytimes.com/gst/fullpage.html?res=9B03E2D9143EF93AA35755C0A9679C8B63>.

²⁶ NATIONAL PARKS FAST FALLING INTO DISREPAIR: From aging facilities to overgrown trails, reaching the backcountry is getting harder. May 25, 2004 <http://www.csmonitor.com/2004/0525/p01s02-usgn.html>.

The National Park system has grown to nearly 400 units, covering over 84 million acres, with a \$9.6 billion (and growing) maintenance backlog.²⁷

- From FY 2001 to FY 2008, Congress appropriated nearly \$540 million for new land acquisition for Park Service.²⁸
- Since 2000, Congress has increased the number of National Heritage Areas from 18 to 40. In January, Senate overwhelming voted to add 10 additional heritage areas.²⁹
- In the 110th Congress, 35 bills were introduced to expand the National Wild and Scenic River system. The National Park Service already manages over 3,000 miles.³⁰ This bill includes over 1,200 additional miles
- Congress has designed 26 National Trails covering more than 80,000 miles. S. 22 will add 6 additional routes to the National Trails system.³¹
- In April 2008, Congress passed and the President signed Consolidated Natural Resources Act of 2008, a massive public lands bills that impacted land (and property rights) in over 30 states.³² The legislation authorized over \$380 million in new spending, much of it at the National Park Service, and did not include a single way to pay for it.

Similarly, the agency is unable to prioritize the maintenance of existing obligations, over new commitments.

²⁷ Vincent, Carol Hardy, Congressional Research Service Report For Congress: “National Park Management;” Updated August 15, 2008.

²⁸ Vincent, Carol Hardy, Congressional Research Service: Land and Water Conservation Fund, Overview, Funding History, and Current Issues;” See Table 1; Last Updated on January 7, 2009.

²⁹ Vincent, Carol Hardy, Congressional Research Service Report For Congress; “National Heritage Areas: Background, Proposals and Current Issues;” January 9, 2009; <http://apps.crs.gov/products/rl/pdf/RL33462.pdf> .

³⁰ Vincent, Carol Hardy, Congressional Research Service Report For Congress: “National Park Management;” Updated August 15, 2008. <http://apps.crs.gov/products/rl/pdf/RL33484.pdf> .

³¹ Calvert, Kori and Sandra Johnson, Congressional Research Service; “Recreation on Federal Lands;” October 28, 2008; <http://apps.crs.gov/products/rl/pdf/RL33525.pdf>.

³² http://energy.senate.gov/public/index.cfm?FuseAction=PressReleases.Detail&PressRelease_id=79919b9b-6235-4e23-bdeb-49d6a9a2c388&Month=5&Year=2008&Party=0

The National Park Service has announced plans to implant microchips in the “stately saguaro cactus” for monitoring in Arizona.³³

Last year, the National Park Service gave \$50,000 to Salem, Massachusetts to install 32 signs directing tourists in town for Halloween to off-street parking and two public parking garages.³⁴

Last year, the National Park Service, Save America’s Treasures program paid \$150,000 for a statewide barn census in Vermont.³⁵

It also spent \$60,000 for Jefferson National Expansion Memorial in Missouri for “Parkpalooza,” an event featuring “rock climbing, lost worlds, music and dance and a photo contest.”³⁶

Until Congress and the Administration prioritize the maintenance of existing national parks’ obligations, the problem will continue to grow worse.

According to the Congressional Research Service, the Park Service backlog reached \$9.6 billion in FY 2007, having more than doubled since FY 1999.³⁷

Despite historic appropriation levels, a recent congressional inquiry revealed that the NPS maintenance backlog grew by \$400 million during a nine month period last year.³⁸

According to the Coalition of National Park Service Retirees this is occurring in part because, “there is no meaningful program of preventative maintenance program in the NPS because very few parks now have the resources to carry one out. The increased preventative maintenance

³³ Rotstein, Arthur, “Feds to use computer chips to foil cactus thieves,” *Associated Press*, October 9, 2008, <http://www.azcentral.com/arizonarepublic/local/articles/2008/10/09/20081009saguaro1009.html>.

³⁴ Dalton, Tom, “City installs new signs,” *The Salem News*, October 22, 2008, http://salemnews.com/punews/local_story_295231951.html.

³⁵ Cormier, Amanda, “Vermont barn census lays foundation for preservation efforts,” *Middlebury College Student Weekly*, November 13, 2008, <http://media.www.middleburycampus.com/media/storage/paper446/news/2008/11/13/LocalNews/Vermont.Barn.Census.Lays.Foundation.For.Preservation.Efforts-3540249-page2.shtml>.

³⁶ Website of the National Park Service, <http://www.nps.gov/jeff/parkmgmt/upload/parkpalooza.pdf>; Parkpalooza website, <http://www.nps.gov/jeff/planyourvisit/parkpalooza.htm>.

³⁷ Vincent, Carol Hardy, Congressional Research Service: National Park Management; August 15, 2008.

³⁸ National Park Service: Excel Spreadsheet Prepared for Senator Tom Coburn, October 27, 2008.

deferrals then turn into a big increase of the already multi-billion-dollar NPS maintenance backlog.”³⁹

Until Congress and the Administration place long term commitments, over short term political gain, the NPS will never be able to practice the kind of preventative maintenance necessary to ensure the success of our national parks for their second century.

The Coburn amendment is simple—No expensive new construction projects until Congress keeps it word (and commitment) to our national parks’ crown jewels.

This amendment will prioritize the rehabilitation and reconstruction of our existing national parks obligations, over new construction.

An exception is provided when the costs of a rehabilitation project exceeds the cost of new construction.

This is common sense-- Individuals do not build additions their homes when the roof is caving in. Neither should the National Park Service or Congress.

³⁹ Coalition of National Park Service Retirees: “A Reality Check- What Visitors Will To America’s National Parks Will Experience During Summer 2006,” June 15, 2006, <http://www.npsretirees.org/cnpsr/reality-check-summer-survey>.

Amendment 679 – Strikes provisions that restrict the development of renewable energy on public lands, including but not limited to geothermal, wind, solar, biomass and related transmission infrastructure.

- The omnibus public lands bill will restrict access to our nation’s public lands and, by doing so, will prevent the development of renewable energy resources.
- The bill establishes new wilderness areas, wilderness study areas, wild and scenic rivers, additional units to the national park system and new national heritage areas
- These designations prevent the development of renewable energy sources such as geothermal, wind, solar, biomass and related transmission infrastructure
- Renewable sources of energy are abundant in the United States and must be a part of a larger strategy to achieve energy independence
- Secretary of the Interior, Ken Salazar, recently proclaimed the production and development of renewable energy “a top priority.”⁴⁰
- Renewable energy resources are vital to America’s energy security

⁴⁰DOI, News Release, March 11, 2009, http://www.doi.gov/news/09_News_Releases/031109c.html

Amendment 679 – Strikes provisions that restrict the development of renewable energy on public lands, including but not limited to geothermal, wind, solar and related transmission infrastructure.

This amendment would eliminate provisions that restrict the development of renewable energy on public lands.

The amendment would specifically remove 19 provisions that expressly prohibit all forms of entry on public land and, namely, geothermal leasing. Geothermal leasing provides access to natural resources on public lands for exploration and development⁴¹ and is administered by the Bureau of Land Management.⁴²

It would make lands with potential renewable energy resources available for future development.

U.S. public lands contain a significant amount of renewable energy

GEOHERMAL

There are 140 million acres of public land in the western states and Alaska that have geothermal resource potential.⁴³

According to former Secretary of Interior Dirk Kempthorne, "Geothermal energy will play a key role in powering America's energy future and **90 percent of our nation's geothermal resources are found on federal lands.**"⁴⁴

SOLAR

There are 29 million acres with solar energy potential in the six southwestern states.⁴⁵ Specifically showcasing the importance of public lands under the Department of the Interior's jurisdiction, Secretary Salazar stated there is "a huge solar potential in the Southwest."

⁴¹ Geothermal Leasing Doc.

⁴² <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=9fe7742c67074b603dcbdc944388707e&rgn=div5&view=text&node=43:2.1.1.3.53&idno=43#43:2.1.1.3.53.1.58.2>

⁴³ DOI, News Release, March 11, 2009, http://www.doi.gov/news/09_News_Releases/031109c.html

⁴⁴ Environment News Service: "Geothermal Development Planned for Western Public Lands." October 22, 2008, <http://www.ens-newswire.com/ens/oct2008/2008-10-22-092.asp>

⁴⁵ *ibid*

BIOMASS

Wood is the most widely used ingredient in biomass.⁴⁶ Approximately one-third or 747 million acres of the U.S. is covered in forest areas. Nearly 57 percent of these forests are owned by the government.⁴⁷

There is approximately 590 million wet tons of biomass available in the U.S. annually.⁴⁸

16 percent of renewable energy generated for electricity comes from biomass and 3 percent of total energy in 2000.⁴⁹

The United States Forest Service notes: “The technology to generate energy from wood has entered a new millennium, with virtually limitless possibilities.”⁵⁰

WIND and TRANSMISSION INFRASTRUCTURE

There are approximately **21 million acres of public land with wind energy potential** in the 11 western states.⁵¹

Secretary Salazar recently stated, “Unless we are able to deal with the transmission issue, we will be standing in place 5 or 10 years from now. It is appropriate for...Congress and President Obama to be absolutely focused like a laser beam on transmission.”⁵²

Transmission lines and pipelines will need to cross hundreds of public lands, rivers and streams to connect energy to consumers.

The omnibus public lands bill establishes new barriers to the development of alternative sources of energy

⁴⁶Energy Information Agency, History of Energy in the United States: 1635-2000
<http://www.eia.doe.gov/emeu/aer/eh/renew.html>

⁴⁷http://www.nationalatlas.gov/articles/biology/a_forest.html

⁴⁸<http://www.eia.doe.gov/kids/energyfacts/sources/renewable/biomass.html>

⁴⁹http://findarticles.com/p/articles/mi_m2744/is_7_2002/ai_90360024

⁵⁰ United States Forest Service, Forest Products Library: “Wood Biomass for Energy,” April, 2004,
<http://www.fpl.fs.fed.us/documnts/techline/wood-biomass-for-energy.pdf>

⁵¹DOI, News Release, March 11, 2009, http://www.doi.gov/news/09_News_Releases/031109c.html

⁵²http://www.doi.gov/news/09_News_Releases/022309.html

This bill will prohibit renewable energy development, including geothermal leasing by designating wilderness area, wilderness study area, wild and scenic rivers and ten new National Heritage Areas.

Each new designation specifically withdraws the land from future mineral and geothermal leasing.

The bill includes 80 federal wilderness area designations of over 2 million acres and expressly prohibits all forms of entry on the lands

The following provision is repeated 19 times throughout the public lands bill:

WITHDRAWAL – Subject to valid existing rights, all Federal land within the [proposed area] is withdrawn from: (1) all forms of entry, appropriation, or disposal under the public land laws; (2) location, entry, and patent under the mining laws; and (3) disposition under all laws relating to mineral and geothermal leasing.

Today, there are 708 federally imposed “wilderness areas” totaling **107 million acres of land in 44 states.**⁵³ **That will swell to 109.2 million acres with the passage of this bill.** While supporters will argue this is a small portion of the nearly two billion acres in this country, they fail to mention that with this bill, **Congress will have designated more U.S. property as federal wilderness areas than the total developed land in this country,** which now stands at **108 million acres** according to the U.S. Census.⁵⁴

Each designation prevents Americans from harnessing clean, American energy.

Supporters of the wilderness designations will argue that many of the lands have “little or no energy potential.” (This begs the question: Why is the land being withdrawn from mineral leasing?)

In many instances such claims are plain wrong or the geologic formations have not been studied sufficiently to fully know the energy potential.⁵⁵

⁵³ <http://www.congress.gov/erp/rl/pdf/RL31447.pdf>

⁵⁴ <http://www.census.gov/compendia/statab/tables/08s0351.pdf>

⁵⁵ Bureau of Land Management: “Soda Mountain Study Area,” p 759

The simple fact is that Congress is viewing tomorrow's energy potential with today's technology.

In an archived study performed by the Bureau Land Management on an area designated in this bill the agency noted: "Resource conflicts in the WSA (wilderness study area) include moderate to high geothermal resource potential."⁵⁶

The energy resources do not even have to be within the wilderness area to raise the ire of opponents.

Some overzealous anti-energy groups, who regularly sue to stop drilling on federal lands, go so far as to fight drilling **adjacent** to wilderness areas.⁵⁷ Similar construction projects for renewable energy leasing that pose this scenario could also be challenged.

The National Park Service acknowledges this point and asserts that it should have control over lands **outside** of the wilderness areas. In testimony before Congress opposing a provision that would have protected the property rights of landowners surrounding a wilderness area, the National Park Service testified:

*"Section 4(d)(2) states that non-wilderness activities outside of designated wilderness shall not be precluded because they can be seen or heard within the wilderness. We are concerned that this section could affect the National Park Service's ability to protect the designated wilderness. Exempting activities outside wilderness could affect the National Park Service's ability to address **noise, pollutants, or other undesirable** effects on wilderness that come from outside the parks. We recommend that this section be removed from the bill."*⁵⁸

For instance, a federal judge in Washington, DC, recently issued a restraining order to halt the development of major oil and natural gas

⁵⁶ Bureau of Land Management: Granite Mountain Wilderness Study Area, CA-010-090

⁵⁷ <http://www.lpfw.org/news/0704oil lawsuit.htm>

⁵⁸ Statement of Karen Taylor (National Park Service) before the House Subcommittee on National Parks, Forests and Public Lands (Resources), October 30, 2007.

http://resourcescommittee.house.gov/images/Documents/20071030/testimony_taylor-goodrich.pdf

reserves on over 100,000 acres of federal lands in portions of Utah, because it was **near** wilderness areas or lands known for their wilderness qualities. They further noted that some of the lands are also **near** national parks and national monuments. This decision set a dangerous precedent for all future energy development surrounding wilderness designations. This land contained “one of the largest onshore natural gas basins in the country,⁵⁹ and was closed off because of its **proximity** to wilderness lands.

The bill contains over 1,000 miles of national wild and scenic river designations, which threaten the development of renewable energy and energy infrastructure.

The bill establishes 92 new national wild and scenic river designations, totaling over 1,000 new miles. This is in addition to the 11,000 plus miles already designated.

The Wild and Scenic Rivers Act prohibits the development of dams, hydroelectric power, or transmission lines and other construction that may inhibit the flow of the river (pipelines). The prohibition extends beyond the actual designation and includes any other tributary or upstream/downstream activity that may inhibit the free flow of the river.

The bill includes the Taunton River designation in Massachusetts, offered by Representative Barney Frank that will likely block construction of a major Liquefied Natural Gas port (LNG). According to the company already planning to build the LNG port, the designations are also a favorite tool of anti-energy lawyers, and are used to block construction of needed transmission lines **(12,000-40,000 miles will be necessary to meet the need of new wind energy projects).**⁶⁰ Senate Majority Leader Harry Reid himself notes: “The West will need 7,500 miles of new transmission lines over the next decade to significantly expand renewable energy production.”⁶¹

Secretary Salazar recently stated, “Unless we are able to deal with the transmission issue, we will be standing in place 5 or 10 years from now. It

⁵⁹ United States District Court for the District of Columbia, “Plaintiffs’ Motion for a Temporary Restraining Order and Preliminary Injunction, page 3. December 22, 2008.

⁶⁰ <http://e360.yale.edu/content/feature.msp?id=2058>

⁶¹ http://reid.senate.gov/newsroom/pr_061708_energy.cfm?renderforprint=1&

is appropriate for...Congress and President Obama to be absolutely focused like a laser beam on transmission.”⁶²

A 2001 lawsuit was filed against the US Forest Service for failing to protect *potential* wild and scenic rivers in Arizona. The group was particularly concerned because a **major transmission line** was being built that would cross a river that the Forest Service was studying for possible inclusion in the wild and scenic river system.⁶³ A Ninth Circuit federal judge agreed with the group, and ruled that the Forest Service must go forward with interim management plans to protect the rivers. In declaring victory, the group noted the importance of providing “critical interim protection from destructive projects, including: **dam proposals, power line construction, excessive livestock grazing, and logging.**”⁶⁴

NATIONAL HERITAGE AREAS

National Heritage Areas are, in large part, a federal designation that supplies millions in federal funding (under the supervision of the National Park Service) to regional preservation groups who work, in part, to influence local zoning boards.

National Heritage Areas use National Park Service funds to subsidize community preservation and tourism groups in achieving more restrictive land use policies. It is difficult to uphold private property rights before state and local zoning boards when one party is receiving subsidies and “technical assistance” from the National Park Service to guide land use in a community or region.

These designations directly impact the construction of new transmission lines.

The National Park System is already comprised of 391 designations that expand over 84 million acres in every state in the continental U.S. except for Delaware.⁶⁵

⁶² http://www.doi.gov/news/09_News_Releases/022309.html

⁶³ http://www.biologicaldiversity.org/news/press_releases/WILD9-26-01.HTML

⁶⁴ http://www.biologicaldiversity.org/news/press_releases/wild7-7-03.htm

⁶⁵ National Park Service, FAQs, <http://www.nps.gov/faqs.htm>

This bill seeks to establish 10 new National Heritage Areas in addition to the 40 existing ones.

While these designations allow some activities in contrast to wilderness areas, they seek to conserve the lands' resources. This is another attempt to expand land ownership for the federal government and tie up public and nonfederal lands from energy leasing.⁶⁶

Secretary of the Interior Ken Salazar recently issued a Secretarial Order calling for the production, development and delivery of renewable energy will be a top priority of the Interior,⁶⁷ but this bill restricts this order.

Secretary Salazar claimed this effort will include the identification of areas of high potential renewable energy, including geothermal, wind, solar and biomass. It also includes mapping out transmission infrastructure to connect power to consumers.

In total, the lands bill withdraws over 3 million acres from energy leasing, placing them outside the scope of the Secretary's endeavors.

Majority Leader Harry Reid summed up the difficulties imposed by these designations when he discussed energy resources in Nevada: "We know that our State has immense clean energy resources; **however, the federal government's management of 86 percent of Nevada's land makes it challenging to explore and develop our enormous renewable energy resources.**"⁶⁸

The potential to develop renewable sources of energy such as geothermal, wind, solar and biomass are abundant in the United States

The Department of the Interior's "Bureau of Land Management has identified about 21 million acres of public land with wind energy potential in the 11 western states and about 29 million acres with solar energy potential

⁶⁶Congressional Research Service, Federal Land Management Agencies: Background on Land and Resources Management, <http://apps.crs.gov/products/r/pdf/R40225.pdf>

⁶⁷DOI, News Release, March 11, 2009, http://www.doi.gov/news/09_News_Releases/031109c.html

⁶⁸<http://reid.senate.gov/issues/energy.cfm>

in the six southwestern states. There are also 140 million acres of public land in western states and Alaska that have geothermal resource potential.”⁶⁹

According to former Secretary of Interior Dirk Kempthorne, "Geothermal energy will play a key role in powering America's energy future and 90 percent of our nation's geothermal resources are found on federal lands." ⁷⁰ This bill attempts to restrict these resources.

Regarding wood biomass energy potential, the United States Forest Service notes: "The technology to generate energy from wood has entered a new millennium, with virtually limitless possibilities.”⁷¹

The new (wilderness) designations in the lands bill block access to the most widely used ingredient in biomass – wood.⁷²

Renewable energy resources are vital to America's energy security

America is dependent on unstable, foreign regimes for the use of increasingly scarce fossil fuels.

Global supplies of fossil fuels will eventually be depleted. Compounding this dilemma is America's dependence on foreign sources of energy.

The United States relies on foreign countries for approximately 58 percent of its petroleum consumption.⁷³

The U.S. consumes 24 percent of global petroleum supply, yet, it only produces 10 percent.⁷⁴

American consumers experienced record high fuel prices in the summer of 2008. Oil prices reached \$147 per barrel. In June 2008, the average price of gasoline was over \$4 per gallon.⁷⁵ Volatile relations with foreign nations

⁶⁹DOI, News Release, March 11, 2009, http://www.doi.gov/news/09_News_Releases/031109c.html

⁷⁰ Environment News Service: "Geothermal Development Planned for Western Public Lands." October 22, 2008, <http://www.ens-newswire.com/ens/oct2008/2008-10-22-092.asp>

⁷¹ United States Forest Service, Forest Products Library: "Wood Biomass for Energy," April, 2004, <http://www.fpl.fs.fed.us/documnts/techline/wood-biomass-for-energy.pdf>

⁷² Energy Information Agency, History of Energy in the United States: 1635-2000 <http://www.eia.doe.gov/emeu/aer/eh/renew.html>

⁷³ Energy Information Agency, Energy in Brief, August 2008 http://tonto.eia.doe.gov/energy_in_brief/foreign_oil_dependence.cfm

⁷⁴ ibid

⁷⁵ http://apps1.eere.energy.gov/consumer/news_detail.cfm/news_id=11813

that hinge on available energy reserves will only intensify without the development of abundant new energy supplies.

The Energy Information Agency predicts total energy consumption to grow by 1.2 percent in 2010 as the economy begins to improve.⁷⁶ At the same time, electricity from coal, our nation's most abundant energy resource, is increasingly demonized by its opponents.

Congress continues to restrict land from oil and gas production. Additionally, our fossil fuel supply is finite in nature. As a result, alternative forms of energy, such as geothermal energy, will play an increasingly important role in our nation's electricity consumption. But with this bill, Congress is now restricting the production of alternative energy in the U.S.

Americans must be allowed to develop energy on public lands to maximize alternative energy resources for all Americans.

Our nation's renewable energy resources are only limited to the extent that Congress prevents their development.

The Majority Leader recently revealed his intention to pass legislation that includes a Renewable Portfolio Standard and a national electric grid.⁷⁷

Mandating the use of more alternative energy while blocking its production goes beyond all common sense. Congress must retreat from this double standard that puts the future of American energy in jeopardy.

Wind power requires transmission infrastructure. Restricting access to public lands will prevent the construction of electricity infrastructure.

Geothermal and solar energy are abundant in the western United States. The omnibus public lands bill establishes new, restrictive wilderness areas in nine states across the western United States.

⁷⁶Energy Information Agency, Short Term Energy Outlook 2009

http://www.eia.doe.gov/emeu/steo/pub/contents.html?featureclicked=3&#Electricity_Markets

⁷⁷New York Times, Senate Leader Outlines 3 Steps to Meeting Obama's Energy Goals, February 25, 2009, <http://www.nytimes.com/gwire/2009/02/25/25greenwire-reid-outlines-3-steps-to-meeting-obamas-energy--9864.html>

Amendment 677 -- Requires an annual report detailing the amount of property the federal government owns and the cost of government land ownership to taxpayers

- The Federal Government Does Not Currently Disclose—And May Not Even Know—The Amount Or Cost Of Property It Occupies
- Federal Land Ownership Continues to Grow
- The Maintenance Backlog For Federal Properties Grows
- The Federal Government Does Not Even Use Much Of The Property That It Occupies
- Growth In Federal Land Ownership Affects Private Property Owners And Taxpayers
- Transparency Will Help Policymakers Prioritize Government Land Management And Ownership

Amendment 677 -- Requires an annual report detailing the amount of property the federal government owns and the cost of government land ownership to taxpayers

This amendment would require the government to publicly disclose the amount of land that it owns, as well as the cost to maintain all government owned properties.

Each year, the Office of Management and Budget would be required to issue a public report detailing federal land ownership. The report would specifically include:

- The total amount of land in the United States;
- The total amount of land owned by the federal government;
- The percentage of all U.S property controlled by the federal government;
- The total cost of operating and maintaining federal real property, including land, buildings and structures;
- A list of all federal property that is either unused or vacant; and
- The estimated cost of the maintenance backlog at each federal agency.

This information will provide greater transparency for taxpayers regarding the size of government owned property and a better understanding of the cost of government land ownership.

It will also provide greater accountability for the maintenance needs of our nation's most precious natural treasures as well as greater understanding of the costs of expanding government land ownership—in terms of financial costs to taxpayers and the consequences that will result from diverting resources from existing properties.

This information would be particularly important for lawmakers when Congress debates or votes upon legislation, such as S. 22, that expands government land ownership without first addressing the needs of existing property.

The Federal Government Does Not Currently Disclose—And May Not Even Know—The Amount Or Cost Of Property It Occupies

There are no requirements under current law to require public disclosure of the amount of land controlled by the federal government or the cost of such occupation to the taxpayers.

In 2004, then-President George W. Bush, however, issued Executive Order 13327 to require that some of this information be made publicly available.^[1]

The President stated that his intention in issuing the Executive Order was to “assure management accountability” of federal properties.

While the President’s directive required the Office of Management and Budget to release an annual report giving a high-level picture of federal property ownership, between fiscal years 2004 and 2005, the government decided to stop releasing information on public domain lands.^[2]

The effect of this decision was to halt the reporting of information on nearly 90 percent of all lands owned by the federal government.

This amendment would legally require the government to release information on *all* of the land it owns and how much it costs to maintain. Most significantly, it would require the government to track the growth in federal land ownership around the country.

Governments track the property that individuals own. The government, therefore, should disclose the same information about its land holdings to the taxpayers who are paying to maintain the property.

The Federal Government Controls More Than One-fourth Of The Nation’s Total Land And That Amount Continues To Grow

A decade ago, the government owned 25 percent of all land in the United States. As of 2004, that number had grown closer to 29 percent.^[3]

^[1] http://www.gsa.gov/Portal/gsa/ep/contentView.do?contentType=GSA_BASIC&contentId=16911&noc=T

^[2] http://www.gsa.gov/gsa/cm_attachments/GSA_DOCUMENT/FRPR_5-30_updated_R2872-m_0Z5RDZ-i34K-pR.pdf

^[3] <https://www.cia.gov/library/publications/the-world-factbook/geos/us.html>

Between 1997 and 2004, the latest years for which reliable information is available, federal land ownership increased from 563.3 million acres to 654.7 million.^[4] That is an increase of more than 90 million acres, or a 16 percent increase, over a very short period of time.

The amount of land owned by the government is equivalent to the total land mass of 27 States.

The federal government has long occupied a majority of the property in some states. This includes as much as 84 percent of the land in Nevada, 69 percent in Alaska, 57 percent in Utah, 53 percent in Oregon, and 50 percent in Idaho.^[5]

As the federal government grabs more and more land, the costs of maintaining this property increases and the maintenance backlog continues to grow. More land in government hands also limits the amount of property available for citizens to own to build a home or start a business.

The growth of government property is a result, in part, of Congress continuing to pass bills, such as S. 22, providing for more and more land acquisitions.

With the Maintenance Backlog For Federal Properties Growing, Federal Land Ownership Has Not Protected National Treasures

Many argue that putting property under the control of the federal government will preserve and protect natural treasures, the truth is existing national parks and natural treasures suffer the most when the government assumes responsibility for additional properties because available resources must be stretched further.

^[4]http://www.gsa.gov/gsa/cm_attachments/GSA_DOCUMENT/Annual%20Report%20%20FY2004%20Final_R2M-n11_0Z5RDZ-i34K-pR.pdf ; and

http://www.gsa.gov/gsa/cm_attachments/GSA_DOCUMENT/owned_inv_97_R2M-n11_0Z5RDZ-i34K-pR.pdf

^[5] Kristina Alexander and Ross W. Gorte. "Federal Land Ownership: Constitutional Authority and the History of Acquisition, Disposal, and Retention," Congressional Research Service, December 3, 2007.

The maintenance backlogs at federal agencies are growing at an alarming rate, demonstrating that the federal government is unable to properly take care and manage the property it is now entrusted.

The cost of the backlog for just six agencies is now \$16 billion.^[6] Because of this, the Government Accountability Office (GAO) has placed federal real property management on its High Risk List for the most serious problems facing government.

According to a GAO report, the cost of the maintenance backlog at the Forest Service has tripled over a ten-year period.^[7]

Despite this backlog, the Senate is expected to overwhelmingly pass S. 22, authorizing the federal government to take ownership of and responsibility for additional properties.

It is irresponsible for the government to take more land when it can not properly manage the property it now owns.

When maintenance needs stack up beyond what the government can afford, as it appears is the case now, our true national treasures are jeopardized.

A 2004 report published by the *Fresno Bee* highlights this problem in regards to the maintenance needs at Yosemite National Park.^[8]

“There are small projects waiting, such as the \$62 tree-trimming work needed at the Arch Rock Picnic Area. There are medium-size projects, such as the \$10,697 replacement of fire rings at the El Capitan Picnic Area. And then there is the supersize work, such as the \$249,587 upgrade of the electrical system at the Yosemite Valley Visitors Center.

“Yosemite faces at least \$43.3 million worth of backed-up maintenance needs that in some cases have lingered for years.”

^[6] <http://www.gao.gov/new.items/d07310.pdf>

^[7] <http://www.gao.gov/archive/1998/rc98061t.pdf>

^[8] Michael Doyle. “Park Service Tabulates Repair Backlog,” *The Fresno Bee*, March 29, 2004; <http://www.yosemite.org/newsroom/clips2004/march/0329a04.htm>

The former superintendent Michael Finley of Yellowstone National Park stated in 2001 that, “Lack of sufficient funding will continue to be the greatest long-term threat to the protection of Yellowstone’s natural and cultural treasures.”^[9]

He issued a warning almost seven years ago to prioritize funding so that true national treasures are not ignored in favor of lower priorities.

Congress has ignored that warning. Instead of addressing current needs, Congress time and again passes legislation, such as S. 22, which ignore the current needs of federal properties and instead add new lands that will require maintenance and consume already limited resources to the government’s control.

S. 22 authorizes billions of dollars in *new* spending, yet does nothing to address any of the problems at Yosemite or Yellowstone.

The Federal Government Does Not Even Use Much Of The Property That It Occupies

While the federal government owns nearly one third of all property in this country, it does not need a large portion of what it occupies.

According to a June 2007 Office of Management and Budget study, the government owns 21,000 buildings that it does not currently need.^[10] The value of all of these buildings is roughly \$18 billion.

The GAO reports that the amount of unneeded or vacant space possessed by the Department of Energy is approximately 20 million square feet.^[11] This is more than three times the size of the Pentagon– the largest office building in the world.

To put into perspective how large the Pentagon is– it could easily fit five of the U.S. Capitol inside of it and the concrete piles on which it is built could stretch from New York to Boston if laid end-to-end.^[12]

^[9] http://www.npca.org/what_we_do/visitor_experience/backlog/limited.html

^[10] http://www.whitehouse.gov/omb/financial/fia/response_section408.pdf

^[11] <http://hsgac.senate.gov/files/GoldsteinsTestimony524d07895t.pdf>

^[12] <http://renovation.pentagon.mil/history-features.htm>

If the situation is at all similar for the government's land holdings, then taxpayers are footing the bill for a lot of wasted space.

Transparency Will Help Policymakers To Prioritize Government Land Management And Make Better Decisions About the Allocation Of Resources

The government owns property it does not use and controls lands that it has failed to properly maintain. No one is entirely sure of the scope or cost of federal land ownership. Yet Congress continues to expand the amount of government controlled land.

It is essential that lawmakers learn to prioritize federal land ownership, management and acquisition.

To do this, it is essential to first learn the size and cost of federal lands as well as the maintenance backlog for federal agencies and properties.

Instead of prioritizing federal land management, Congress has allowed national parks and natural treasures to fall into disrepair by stretching federal resources and national priorities to include local pork projects. Each of the components of S. 22—that may, in fact, have local and even national value—will draw resources away for the national treasures that are not being properly maintained.

Adding additional properties and responsibilities to federal bureaucracies simply forces agencies to divert funds away from addressing current responsibilities and property management.

The report that would be required by this amendment will allow the public and policy makers to better understand current challenges and better evaluate the impact of adding to existing responsibilities.

AMENDMENT 675 - To prohibit federal bureaucrats from using eminent domain under the authorities granted by the Omnibus Public Lands Management Act.

No person shall be... deprived of life, liberty, or property, without due process of law, nor shall private property be taken without just compensation

~Amendment V, United States Constitution

"In a word, as a man is said to have a right to his property, he may be equally said to have a property in his rights."

~James Madison- "Father of our Constitution"

- The Public Lands omnibus represents one of the largest expansions of federal land authority in two decades and is a substantial threat to property rights.⁷⁸
- The federal government is already the dominant land holder in the nation.
- Federal land agencies, and their supporters, have not been shy about exercising authorities identical to those granted in this bill over private land.
- The Omnibus Public Lands bill empowers bureaucrats to impact property rights including the use of eminent domain.
- Non-partisan experts have acknowledged that eminent domain powers may be used pursuant to the omnibus bill.
- The "protections" offered in the bill are meaningless.

⁷⁸ Oregonian: "Oklahoma senator once again holds up Mount Hood legislation;" November, 15, 2008; [http://www.trailadvocate.org/discuss/msgReader\\$1086?mode=topic&y=2008&m=12&d=2](http://www.trailadvocate.org/discuss/msgReader$1086?mode=topic&y=2008&m=12&d=2)

- At a very minimum, Congress should consider basic protections for property owners, such as a prohibition on the use of eminent domain for powers granted in this bill.
- The American people are demanding this commonsense safeguard.
- Property rights form the foundation of our economic liberty.
- This amendment will ensure that eminent domain authority is never used to implement this so called non-controversial bill.

AMENDMENT 675 - To prohibit federal bureaucrats from using eminent domain under the authorities granted by the Omnibus Public Lands Management Act.

The federal government currently owns 653 million acres of land, or nearly a third of all land in the United States. In some states, the percentage land owned by the federal government exceeds 80 percent.

The lands package (S. 22) has over 170 different provisions, many of which grant additional land purchase authority to federal bureaucrats. This often includes an existing authority to forcibly take private land by eminent domain.

This amendment will ensure that no federal agency can acquire new land under this Act using eminent domain authority. A reasonable exception is made for obtaining necessary access easements.

The Public Lands omnibus represents one of the largest expansions of federal land authority in two decades and is a substantial threat to property rights.⁷⁹

The massive 1,294 page bill includes: Over \$10 billion in spending authority, largely for federal land agencies; 10 new National Heritage Areas; at least 3 new units of the National Park Service (NPS); over 12 studies to initiate the creation or expansion of NPS units; 80 new or expanded federal wilderness area designations totaling nearly 2.2 million acres; and 92 federal Wild and Scenic River designations covering nearly 1,100 miles of shoreline.

According to a leading property rights advocate: "This (bill) is a serious threat to all property owners in this country. Over the past several decades, there has been a proliferation of programs dedicated to the preservation of land that has extended the grasp of the federal government and its influence over private property rights. As a result of this legislation, landowners will see their property value diminish due to increased land use

⁷⁹ Oregonian: "Oklahoma senator once again holds up Mount Hood legislation;" November, 15, 2008; [http://www.trailadvocate.org/discuss/msgReader\\$1086?mode=topic&y=2008&m=12&d=2](http://www.trailadvocate.org/discuss/msgReader$1086?mode=topic&y=2008&m=12&d=2)

regulations and outdoor recreation enthusiasts will find new restrictions on both public and private land.

The expert goes on to say, "Legislation should never arbitrarily attempt to seize land from the public and restrict its use, as the omnibus package would."⁸⁰

The federal government is already the dominant land holder in the nation.

The federal government currently owns 653 million acres, or 29 percent of all land in the United States.⁸¹ Nearly 1 out over 3 acres in this country is owned and controlled by the federal government. In the West, 1 out of every two acres is owned and controlled by the federal bureaucracy.⁸²

In many states, the federal government owns the majority of land. For instance: Nevada- 84 percent, Alaska- 69 percent, Utah- 57 percent, 53 percent-Oregon, Idaho- 50 percent. In these states now, the federal government has control over more land the Governor or the legislature of the state.

These statistics do not include all lands where the federal government exercises varying degrees of control, such as national heritage areas, national trails, and wild and scenic rivers.

Federal land agencies, and their supporters, have not been shy about exercising authorities identical to those granted in this bill over private land.

The National Park Service has already acknowledged that it believes it has control over lands **outside** of federal wilderness areas (2.2 million acres in this bill).

In testimony before Congress opposing a provision that would have protected the property rights of landowners surrounding a wilderness area, the National Park Service testified:

⁸⁰ <http://www.propertyrightsalliance.org/index.php?content=SenLand08>

⁸¹ <http://www.congress.gov/erp/rl/pdf/RL34273.pdf>

⁸² http://www.house.gov/hensarling/rsc/doc/Federal_Land_Ownership_05012005.pdf

*“Section 4(d)(2) states that non-wilderness activities outside of designated wilderness shall not be precluded because they can be seen or heard within the wilderness. We are concerned that this section could affect the National Park Service’s ability to protect the designated wilderness. Exempting activities outside wilderness could affect the National Park Service’s ability to address noise, pollutants, or other undesirable effects on wilderness that come from outside the parks. We recommend that this section be removed from the bill.”*⁸³

In commemorating the 40th anniversary of the Wild and Scenic Rivers Act last year, the National Parks Conservation Association (NPCA) in describing its legal efforts based on the Wild and Scenic Rivers Act noted, “...by helping the National Park Service fight [this dam], NPCA helped reshape Section 7 of the Wild and Scenic Rivers Act, ultimately giving federal agencies more control over development that could influence the rivers they protect both inside the National Wild and Scenic Rivers System, and beyond.”⁸⁴

The Omnibus Public Lands bill empowers bureaucrats to impact property rights including the use of eminent domain.

According to noted property rights advocates Ronald Utt and Nicolas Loris, the public lands omnibus will “continue the federal assault on private property rights.”⁸⁵

While the bill is often silent (by design), it clearly grants additional authority to federal bureaucrats based on laws that grant the right to seize land by eminent domain (Wild and Scenic Rivers, National Trails Act).

The omnibus creates an additional 1,200 miles of “protected” shoreline pursuant to the ***Wild and Scenic Rivers Act of 1968***.

⁸³ Statement of Karen Taylor (National Park Service) before the House Subcommittee on National Parks, Forests and Public Lands (Resources), October 30, 2007.

http://resourcescommittee.house.gov/images/Documents/20071030/testimony_taylor-goodrich.pdf

⁸⁴ National Parks Conservation Association website, “Of Time and Rivers Flowing: Forty Years Downstream for the National Wild and Scenic Rivers System.” Summer 2008, <http://www.npca.org/magazine/2008/summer/of-time-and-rivers-flowing.html>

⁸⁵ Utt, Ron and Nicolas Loris, “Omnibus Lands Bill Places More Energy Off Limits,” Heritage Foundation.

That original Act reads: “Neither the Secretary of the Interior nor the Secretary of Agriculture may acquire lands by condemnation, for the purpose of including such lands in any national wild, scenic or recreational river area, **if** such lands are located within any incorporated city, village or borough which has in force and applicable to such lands a duly adopted, valid zoning ordinance that conforms with the purposes of this Act.”⁸⁶

In other words, if the local government refuses to be steamrolled by federal regulators, local properties are subject to forcible seizure through the eminent domain process.

According to an analysis appearing in the Wild and Scenic Rivers Act in the Lewis and Clark Law School Environmental Law Review, “[the] use of eminent domain to acquire private property [is] allowed if the majority of land along the river segment is *not* federally owned; agency may also use condemnation when necessary to acquire scenic easements through private property.”⁸⁷

Also consider the ***National Trails Act***, which is invoked at least six times in the lands omnibus.

It reads: “The appropriate Secretary may utilize condemnation proceedings without the consent of the owner to acquire private lands or interests...”⁸⁸

Non-partisan experts have acknowledged that eminent domain powers may be used pursuant to the omnibus bill.

The Congressional Budget Office (CBO) noted that while the power would likely be used sparingly, the bill now under consideration *does* allow for the use of eminent domain. “In cases where property is acquired through eminent domain, the Department of the Interior would have to compensate property owners for the fair market value of the property.”⁸⁹

⁸⁶ Wild and Scenic Rivers Act, PL 90-542, <http://www.rivers.gov/wsract.html>

⁸⁷ Lewis and Clark School of Law, Environmental Law Review Online; Andy Kerr and Mark Salvo, Issue 38:3, http://www.elawreview.org/elaw/383/overlapping_wilderness_and_wil.html

⁸⁸ National Trails System Act, PL 90-543, <http://www.nps.gov/nts/legislation.html>

⁸⁹ Congressional Budget Office Cost Estimate: “S. 1193 A bill to direct the Secretary of the Interior to take into trust.” November 12, 2008.

two parcels of federal land for the benefit of certain Indian Pueblos in the state of New Mexico

In a letter recently sent to all members of the Senate, and signed by over 100 citizen and taxpayers groups, “we are concerned the omnibus bill would lock millions of additional acres of land into government regulation, preventing American citizens from exercising their right of property.”⁹⁰

The “protections” offered in the bill are meaningless.

Of the 170-plus provisions in the bill, in less than a dozen instances, the authors of the legislation have included “willing seller” provisions—a term that is never defined and generally considered meaningless by property rights experts.

When asked about a willing seller provision being considered in the 109th Congress James Burling, an attorney with the Pacific Legal Foundation, noted: “The so-called protections for private property owners are largely symbolic; so long as regulators can browbeat landowners into becoming ‘willing sellers’ we will continue to see the erosion of fee simple property ownership in rural America.”⁹¹

More important, the bill DOES NOT repeal or impair the underlying eminent domain authority that exists for most of the provisions of the Omnibus.

In fact, agencies of the federal government have invoked eminent domain authority on “willing sellers.”⁹²

At a very minimum, Congress should consider basic protections for property owners, such as a prohibition on the use of eminent domain for powers granted in this bill.

⁹⁰ Property Rights Alliance: Letter dated November 10, 2008,
<http://www.propertyrightsalliance.org/index.php?content=SenLand08>

⁹¹ Statement of Peyton Knight Director of Environmental and Regulatory Affairs, The National Center for Public Policy Research; Before the U.S. House of Representatives Committee on Resources Subcommittee on National Parks, Recreation and Public Lands; September 28, 2006
http://republicans.resourcescommittee.house.gov/archives/ii00/archives/109/testimony/2006/peytonknight_092806.pdf

⁹² The US Navy filed condemnation proceedings against private farms/willing sellers in North Carolina,
http://www.freedomworks.org/informed/issues_template.php?issue_id=2302

The Coburn amendment is simple. It will not prevent a single federal designation from being enacted, nor will it impact the ability of agencies to protect or administer the lands outlined in this bill.

It simply bars federal bureaucrats from taking the extraordinary step of seizing private property under any provision of this bill (remember we are not talking about essential government activities like national defense or even

To those who say it is unlikely such power would ever be used, what is the harm in clearly saying it cannot happen?

To those who have already experienced the pain of having hard earned property taken by the federal government, this amendment says “never again, not on our watch.”

The American people are demanding this commonsense safeguard.

When asked in a recent National Constitution Center poll, 87 percent of those polled said that the government should not have the power “to take people’s private property to redevelop an area.”

Regardless of ideology or position on the lands bill, Congress must unite in defense of one of the most important Constitutional rights.

This amendment will ensure that eminent domain authority is never used to implement this so called non-controversial bill.

It simply eliminates the possibility that federal bureaucrats will forcibly take private land in the implementation of this legislation.

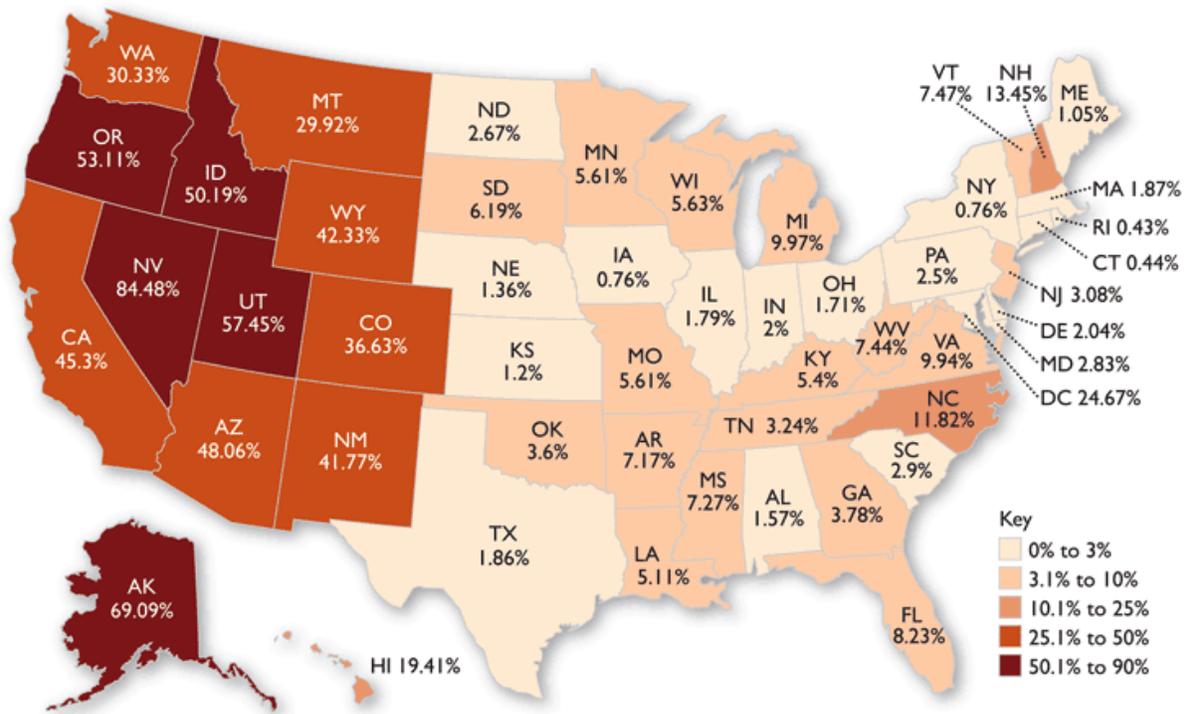
Property rights form the foundation of our economic liberty.

Government exists in large part to preserve and protect this essential right. Yet in the modern era, the federal government often poses the greatest threat.

Never satisfied with the size of federal land holdings (653 million acres), or its jurisdictional reach, Congress has paid little attention to the property rights of Americans.

The federal government does not need more land; and it certainly does not need the authority to take it forcibly.

Percent of Federally Owned Acreage, by State



U.S. Rankings, from Highest to Lowest

State	Percentage	State	Percentage	State	Percentage
1 Nevada	84.48	18 Virginia	9.94	35 Maryland	2.83
2 Alaska	69.09	19 Florida	8.23	36 North Dakota	2.67
3 Utah	57.45	20 Vermont	7.47	37 Pennsylvania	2.50
4 Oregon	53.11	21 West Virginia	7.44	38 Delaware	2.04
5 Idaho	50.19	22 Mississippi	7.27	39 Indiana	2.00
6 Arizona	48.06	23 Arkansas	7.17	40 Massachusetts	1.87
7 California	45.30	24 South Dakota	6.19	41 Texas	1.86
8 Wyoming	42.33	25 Wisconsin	5.63	42 Illinois	1.79
9 New Mexico	41.77	26 Minnesota	5.61	43 Ohio	1.71
10 Colorado	36.63	27 Missouri	5.61	44 Alabama	1.57
11 Washington	30.33	28 Kentucky	5.40	45 Nebraska	1.36
12 Montana	29.92	29 Louisiana	5.11	46 Kansas	1.20
13 D.C.	24.67	30 Georgia	3.78	47 Maine	1.05
14 Hawaii	19.41	31 Oklahoma	3.60	48 Iowa	0.76
15 New Hampshire	13.45	32 Tennessee	3.24	49 New York	0.76
16 North Carolina	11.82	33 New Jersey	3.08	50 Connecticut	0.44
17 Michigan	9.97	34 South Carolina	2.90	51 Rhode Island	0.43

Source: U.S. General Services Administration, Office of Governmentwide Policy, *Federal Real Property Profile: Overview of the United States Government's Owned and Leased Real Property as of September 30, 2004*, at http://www.gsa.gov/gsa/cm_attachments/GSA_DOCUMENT/Annual%20Report%20FY2004%20Final_R2M-n11_0Z5RDZ-i34K-pR.pdf (November 14, 2008).

Amendment 682 – To Modify Provisions That Would Criminalize Visitors to Federal Lands for Collecting Insignificant Rocks and Stones and Discourage Paleontological Discoveries in America

- **Fossil Theft from Federal Lands Is Already Illegal**
- **Teachers and Students Are Being Apprehended By the Current Strict Rules Prohibiting Fossil Collecting**
- **This Provision Inappropriately Criminalizes Teachers, Graduate Students and Troop Leaders Who Pick Up a Rock on Federal Lands**
- **Heavy-Handed Penalties Will Likely Discourage Paleontological Research and Scientific Discoveries**
- **This Provision Inappropriately Includes Eminent Domain Authority**
- **This Bill Diverts Important Federal Resources to Creating a Fossil Police During a Time of Great National Need**

Amendment 682 – To Modify Provisions That Would Criminalize Visitors to Federal Lands for Collecting Insignificant Rocks and Stones and Discourage Paleontological Discoveries in America

The Paleontological Resources Preservation Act (H.R. 554 in the 110th Congress) is Subtitle D in Title VI of the massive lands bill omnibus. This bill was controversially approved by the House Natural Resources Committee by voice vote, even though most Republican Members were unable to attend the hearing and opposed this measure. Additional consideration by the Committee on Agriculture was not permitted, even though this bill greatly affects Forest Service management.

This bill has been portrayed as addressing the “growing problem of theft and vandalism of” fossils on public lands. The bill’s sponsor, Rep. Jim McGovern, argues this legislation is needed to protect fossils on public land, and that “[t]he commercial value of America’s fossils has spawned an exploding international black-market.” Additionally, he has argued that “a clear, consistent, and unified policy that gives federal land managers the authority to properly protect these resources” is needed.⁹³

While this bill has been marketed as bi-partisan and non-controversial, it is a heavy-handed “solution” that will likely have the unintended consequence of discouraging paleontological discoveries, criminalize innocent visitors to federal lands, and authorize additional eminent domain authority.

This amendment would help ensure that innocent civilians who pick up a rock are exempted from severe criminal and civil penalties, remove the extraordinary authority authorized in this bill to seize vehicles and other property of violators, and remove the authorization of eminent domain authority. This amendment does not change other civil and criminal penalties included in this act.

Fossil Theft from Federal Lands Is Already Illegal

Fossil theft from federal lands is predominantly illegal.

⁹³ Rep. Jim McGovern's, “Testimony on H.R. 554, the Paleontological Resources Preservation Act,” April 17, 2007, House Natural Resources Committee, Subcommittee on National Parks, Forests and Public Lands, <http://mcgovern.house.gov/?sectionid=15§iontree=4,15&itemid=48>

According to the *Atlanta Journal Constitution*, “The law isn’t complicated. Taking vertebrate fossils—dinosaurs, mammals and other creatures with backbones—from most of the 622 million acres (252 million hectares) owned by the federal government, and the removal of any fossils from national parks without a permit, constitute theft of government property. Penalties vary from modest fines to prison time.”⁹⁴

Teachers and Students Are Being Apprehended By the Current Strict Rules Prohibiting Fossil Collecting

Unfortunately, there is a “well-established black market for fossils” taken from federal lands illegally. Savvy criminals “target [certain] sites and then sell what they collect to intermediate buyers, who in turn sell them to museums or other institutions.”⁹⁵

However, not all those prosecuted under current laws are professional thieves intent on making thousands of dollars from this illicit trade.

The national parks system, which has the strictest rules and most law enforcement officers, is better protected than the open lands managed by the Bureau of Land Management and the U.S. Forest Service.

According to Badlands Superintendent Bill Supernaugh, “We’ve probably prosecuted more cases than any other unit of the park system... We investigated 32 cases last year, but we don’t know whether that was 10 percent of what happened or one percent... a significant number of the people we apprehend are **teachers, graduate students and troop leaders.**”

This Provision Inappropriately Criminalizes Teachers, Graduate Students and Troop Leaders Who Pick Up a Rock on Federal Lands

Currently, looting and excavating of relics and fossils on public lands is already prohibited without permission. Unfortunately, some thieves

⁹⁴ Mike Toner, “Brazen Fossil Hunters Are Cleaning Out U.S. Dinosaur Heritage,” August 24, 2001, The Atlanta Journal-Constitution, <http://news.nationalgeographic.com/news/pf/62091064.html>

⁹⁵ Mike Toner, “Brazen Fossil Hunters Are Cleaning Out U.S. Dinosaur Heritage,” August 24, 2001, The Atlanta Journal-Constitution, <http://news.nationalgeographic.com/news/pf/62091064.html>

continue to violate these laws, often stealing fossils worth tens of thousands of dollars.⁹⁶

According to Blake Selzer, legislative director for the non-profit National Parks Conservation Association, the problem has been a lack of law enforcement. “Insufficient budgets translate to unfilled positions and inadequate staffing,” and the inability to apprehend thieves of public artifacts and fossils.⁹⁷

Unfortunately, this bill takes a different approach by instead establishing civil penalties, criminal penalties and forfeiture of certain assets used in collecting fossils on federal lands.

These penalties apply to any individual who either deliberately or by accident takes or damages a “paleontological resources,” defined as “any fossilized remains, traces, or imprints of organisms, preserved in or on the earth’s crust, that are of paleontological interest and that provide information about the history of life on earth,” except for items covered under the Archaeological Resources Protection Act of 1979⁹⁸ and the Native American Graves Protection and Repatriation Act. This definition is problematic because it is so broad it could include almost any rock.

In order to pick up anything resembling fossilized remains, an individual would be required to have a permit issued by either the Secretary of the Interior or the Secretary of Agriculture. But only those who are “qualified to carry out the permitted activity [and] the permitted activity is undertaken for the purpose of furthering paleontological knowledge or for public education” could be issued a permit. No definition is given of what such an activity may look like.

The one potential exception to the permit provision is for “casual collecting,” **as long as the Secretary** of the Department managing the land on which the collecting is done allows it and as long as the collecting is “consistent

⁹⁶ Judy Keen, “Relic thefts 'huge crime problem' in U.S. parks,” January 23, 2008, USA Today, http://www.usatoday.com/news/nation/2008-01-23-parks_N.htm

⁹⁷ Judy Keen, “Relic thefts 'huge crime problem' in U.S. parks,” January 23, 2008, USA Today, http://www.usatoday.com/news/nation/2008-01-23-parks_N.htm

⁹⁸ 18 USC 470bb(1), “Any material remains of past human life or activities [older than 100 years] which are of archaeological interest, as determined under uniform regulations promulgated pursuant to this Act... Nonfossilized and fossilized paleontological specimens, or any portion or piece thereof, shall not be considered archaeological resources, under the regulations under this paragraph, unless found in an archaeological context.

with the laws governing the management” of this land. This amendment would require the Secretary to allow casual collecting.⁹⁹

The legislation establishes criminal and civil penalties for those who:

- “excavate, remove, damage, or otherwise alter or deface or attempt to excavate, remove, damage, or otherwise alter or deface any paleontological resources located on Federal lands;”
- Sell, purchase, exchange, transport, export, receive, or offer to exchange, transport, or receive any paleontological resource if the individual in question “knew or **should have known**” that this resource was illegally taken from federal land.

This means that the penalties apply to those who unknowingly or unintentionally violate the law. And since this bill requires all fossils found on public lands to stay in the possession of the federal government and there are no permit provisions for commercial collecting on public lands, commercial collecting is outlawed.

Prison terms up to ten years can be assessed along with fines of thousands of dollars.

Additionally, civil penalties, based on both the fair market value and the “scientific value” of the fossils in question, cost to repair the fossil site, and other redeemable costs, are applied to violators. While there is a fair market value for these goods, it is unclear what the “scientific value” of a fossil is and how it will be determined.

In addition to these penalties, “all vehicles and equipment of any person that were used in connection with the violation, shall be subject to civil forfeiture.” To make matters even worse, those accused of violating this law, would be required to prove their innocence before their seized assets could be returned to them.

The Association of Applied Paleontological Sciences (AAPS), which since 1978 has represented commercial fossil dealers, collectors, enthusiasts, and academic paleontologists “for the purpose of promoting ethical collecting practices and cooperative liaisons with researchers, instructors,

⁹⁹ “Casual Collecting” is defined as collecting a “reasonable” amount of common fossils for non-commercial personal use without damaging the environment.

curators and exhibit managers in the paleontological academic and museum community,¹⁰⁰ objects to these penalties:

“Imprisonment and vehicle forfeiture should be reserved for only the most heinous violation. Our government does not need to put scientists in jail and confiscate University vans.”¹⁰¹

Congressmen John Culberson (TX) said it best on the House floor, “If you don't have a permit, if you're not a qualified paleontologist, and you pick up a rock and throw it in the car, if you alter a rock on federally owned land in most of the western States and throw it in the car, it is 5 years in prison... So ladies and gentlemen of the Congress, if you vote for this bill, you're voting to subject your constituents to be thrown in jail. Grandma and Grandpa with the grandkids traveling in the western States, if they pick up a rock and throw it in the car, 5 years in jail, thousands of dollars in fines, and the Winnebago is going to be confiscated. This is dead wrong.”¹⁰²

This amendment would only allow for the paleontological resources removed from federal lands to be seized.

Heavy-Handed Penalties Will Likely Discourage Paleontological Research and Scientific Discoveries

There is great concern that criminalizing an activity practiced by many Americans as leisure, as a scientific pursuit, and by some as a commercial enterprise will actually prevent important paleontological discoveries, given the huge abundance of fossils on federal lands.

In a letter to Congress, AAPS argues,

“There are no provisions for the sale of fossils from commercial quarries or surface collecting. These are an important and integral part of the world of paleontology, and a mechanism to provide for the sale of fossils from public lands, like other resources, should have been devised as part of this Bill. There are also no provisions for commercial exploration, collecting, processing and sale of fossils on public lands. Wouldn't this be a better alternative than fossils disappearing from the world forever? All other natural resources are allowed this application. Why have vertebrate fossils been excluded? Gravel companies can grind up fossils for fill, but collectors are not allowed to collect and sell these same fossils.

¹⁰⁰ “Who Is The AAPS?” AAPS Website, <http://www.aaps.net/introduction.htm> - accessed March 14, 2009

¹⁰¹ Letter on H.R. 554, May 12, 2008, AAPS

¹⁰² Rep. John Culberson, Floor Statement on S. 22, March 11, 2009, Congressional Record

Something just doesn't seem right about this... Professional collectors, intimately familiar with the latest techniques for safe retrieval and documentation can and should be a vital ally in the fight to preserve our fossil resources... Due to the expense involved with fossil collecting, many specimens have been lost to science due to the fact that the museums and universities collecting on public land do not have the time, money or staff to collect everything they see. These specimens end up as dust as they erode away. Representatives from the Denver Museum have told us of this exact thing happening to them, as year after year they return to a collecting area and watch fossils erode to nothing.”¹⁰³

According to AAPS, a 1986 National Academy of Sciences report supports many of AAPS’ arguments.

Non-academic paleontologists believe that allowing hands on access to fossil specimens for a large portion of the general public will create a greater interest in science. The incentives of a for-profit system, they contend, will yield numerous new species that would otherwise never be discovered. This system can provide major specimens for display in museums at costs far below those of museums which fund their own staff for exploration, excavation and equipping a laboratory for preparation. Similarly, they can provide classrooms and instructors numerous fossil specimens at minimal cost.

Requiring commercial and non-academic paleontologists to purchase a permit if they want to look for paleontological resources on public lands is one thing, but prohibiting them from scouring millions of acres of public lands is extreme and counterproductive.

This Provision Inappropriately Includes Eminent Domain Authority

Within this legislation, section 6307(d) authorizes the use of penalties collected under the provisions of this legislation “to acquire sites...Any acquisition shall be subject to any limitations contained in the organic legislation for such Federal lands.”

¹⁰³ Letter on H.R. 554, May 12, 2008, AAPS

While the bill's authors seek to justify this provision by pointing out that such an acquisition may balance out the damage done by a violator, the use of eminent domain to accomplish this goal is unacceptable.

If a fossil is found on private property, the federal government could begin condemnation proceedings to take the land from a citizen if this act were to pass.

While the bill's sponsor argues it "will in no way affect private land-owners,"¹⁰⁴ this provision is at odds with this claim.

When asked in a recent National Constitution Center poll, 87 percent of those polled said that the government should not have the power "to take people's private property to redevelop an area."

Regardless of ideology or position on the lands bill, Congress must unite in defense of one of the most important Constitutional rights – the right to private property.

This amendment would limit the use of moneys collected from penalties "to protect, restore, or repair the paleontological resources and sites which were the subject of the action, and to protect, monitor, and study the resources and sites." The provision to acquire land with these monies is removed.

This Bill Diverts Important Federal Resources to Creating a Fossil Police During a Time of Great National Need

This bill is a controversial and heavy-handed response to a non-emergency situation. Instead of prioritizing resources to enforce current law, this legislation and the underlying bill it has been attached to, create new federal commitments and spread these inadequate resources even thinner.

Scientific experts such as AAPS have been largely ignored during the drafting of this bill, even though they represent interests greatly affected by this bill and agree a more uniform policy regarding paleontological

¹⁰⁴ Rep. Jim McGovern's, "Testimony on H.R. 554, the Paleontological Resources Preservation Act," April 17, 2007, House Natural Resources Committee, Subcommittee on National Parks, Forests and Public Lands, <http://mcgovern.house.gov/?sectionid=15§iontree=4,15&itemid=48>

resources on federal lands is needed. Prominent Members of Congress, including the Chairman of the House Committee on Agriculture have also been passed over for input on this measure.

Additionally, it is unclear how this act will be enforced and what additional cost it will have on public land agencies. Even though the Congressional Budget Office did not project significant costs,¹⁰⁵ the additional costs to create a “fossil police” to patrol nearly 500 million acres of BLM and U.S. Forest Service lands and enforce this law, along with requiring the U.S. Department of Justice to prosecute violators could be significant.

Creating a fossil police may also detract valuable resources from efforts to eliminate illegal drug production and illegal smuggling activity in national parks and other federal lands.

This bill also prohibits any locality data regarding fossil discoveries being made public without the permission of the Secretary – another provision that may actually hinder scientific progress.

The direct effect of enacting this legislation will be to exclude the majority of those who are currently collecting fossils on federal lands from being able to do so. This will reduce the fossils available for museums, classrooms, and collectors and further discourage the development of paleontology in our country. Why should Congress eliminate for-profit incentives when such motivation can encourage paleontological discoveries and preservation of fossils that would otherwise turn to dust? Some of these for-profit paleontologists provide classrooms with fossils for earth science studies – how is that an inappropriate activity? If paleontologists aren’t allowed to utilize the free market, won’t that decrease the motivation for more paleontologists?

More importantly, why can’t Americans who technically own these lands and for whose enjoyment these lands are maintained not benefit from the resources on these lands? Why should only academic paleontologists with PhD’s be allowed to pick up interesting rocks and fossils?

¹⁰⁵ Cost Estimate of H.R. 554, May 20, 2008, Congressional Budget Office, <http://www.cbo.gov/ftpdocs/92xx/doc9297/hr554.pdf>

Instead of passing this inappropriate bill as a provision in this massive omnibus package at an inappropriate time, Congress should develop alternative legislation that will not have unintended negative consequences on paleontological progress in our country.

While this amendment does not address all the concerns highlighted by others, it would at least help ensure that innocent Americans are not subject to the severe criminal and civil penalties in this bill. It amendment would also remove an objectionable asset forfeiture provision that authorizes the seizure of vehicles and equipment in addition to the criminal and civil provisions in this bill, and removes an eminent domain provision.

Amendment 683 – Eliminates over \$1 billion in wasteful and unneeded spending contained within the bill.

The Omnibus Public Land Management Act will cost taxpayers \$10 billion to enact. This amendment would reduce the cost by \$1,008,750,000 by striking some of the most wasteful and unneeded spending in the bill, including:

- \$3.5 million for a birthday celebration for St. Augustine, Florida;
- \$5 million for botanical gardens in Hawaii and Florida;
- \$1 billion to restore 500 salmon to California's San Joaquin River; and
- \$250,000 to study whether or not Alexander Hamilton's boyhood estate in the Virgin Islands should be made a national park.

The amendment would also prohibit any of the funds authorized by the bill to study historic shipwrecks.

\$3.5 million to create a commission to plan the 450th anniversary of St. Augustine, Florida in the year 2015

S. 22 establishes the St. Augustine 450th Commemoration Commission to plan and execute programs to celebrate the 450th anniversary of the founding of St. Augustine, Florida. According to the Congressional Budget Office (CBO), implementing S. 2359, would cost \$500,000 annually over the 2009-2015 period, which totals \$3.5 million over the seven years.¹⁰⁶

St. Augustine—the oldest continuously occupied European-established city in the continental United States—holds a birthday celebration every year. Last year's included three full days of special events and a birthday party complete with cake and games.

The population of St. Augustine is approximately 12,160. This earmark would, therefore, provide nearly \$300 per resident to celebrate their town's birthday six years from now.

¹⁰⁶ Congressional Budget Office Cost Estimate, September 25, 2008.
<http://www.cbo.gov/ftpdocs/98xx/doc9815/s2359.pdf>

According to St. Augustine's most recent budget report, the city's projected total revenue for Fiscal Year 2008- Fiscal Year 2009 is over \$23 million.¹⁰⁷ Additionally, in FY 2008-09, the state of Florida had a surplus of \$53.7 million.¹⁰⁸ Conversely, the United States national debt now exceeds \$11 trillion.

If the residents of St. Augustine, or any other community, wish to throw themselves a birthday celebration, they should not expect the rest of the country to pay for their party.

\$5 million for the National Tropical Botanical Garden for gardens in Hawaii and Florida

S. 22 authorizes \$5 million for the National Tropical Botanical Garden, a private nonprofit organization that boasts being the only tropical botanical garden with a charter from the United States Congress.

The organization's tropical gardens and preserves are located in five different areas in Hawaii and Florida.

The group has received millions of dollars from taxpayers, contributors, and visitors over the past decade.

Between FY 2000 and FY 2006, the National Tropical Botanical Garden has received more than \$1,064,526 in federal funding.¹⁰⁹

The Garden reports \$12.4 million in annual revenue, with operating expenses of \$8.1 million. According to auditing reports from 2007, the National Tropical Botanical Garden has net assets worth over \$68 million,¹¹⁰ an amount that has steadily increased from \$53.7 million in 2005.¹¹¹

¹⁰⁷ Proposed Budget Fiscal Year 2008-2009. http://www.staugustinegovernment.com/the-city/featured-stories-archive/9_08/documents/BudgetBook08-09--FINAL.pdf pg. 6

¹⁰⁸ Governor Crist's Financial Outlook.

[http://peoplesbudget.state.fl.us/\(S\(ut2e3dqq25pwlfiktlz2s155\)\)/reports/Preformatted/Financial_Outlook.pdf](http://peoplesbudget.state.fl.us/(S(ut2e3dqq25pwlfiktlz2s155))/reports/Preformatted/Financial_Outlook.pdf)

¹⁰⁹ http://www.fedspending.org/faads/faads.php?recip_id=615201&sortby=u&detail=-1&datatype=T&reptype=r&database=faads&fiscal_year=&submit=GO

¹¹⁰ http://ntbg.org/about/NTBG_FY2007_FinStmnt.pdf

¹¹¹ http://ntbg.org/about/NTBG_FY2006_FinStmnt.pdf

National Tropical Botanical Garden CEO and Director Charles R. "Chipper" Wichman, Jr., was paid a salary of \$135,039 in 2006.

\$1 billion to restore 500 salmon to California's San Joaquin River

S. 22 contains a provision intended to settle a lawsuit with environmental groups that would cost the federal government approximately \$1 billion to restore 500 salmon in California's San Joaquin River. At \$2 million per head, each salmon would be worth far more than its weight in gold.

The primary objective is to implement a judicial settlement, between the Bureau of Reclamation's Friant Division of the Central Valley Project (CVP) in Central California and a coalition of environmental and fishing groups, by restoring water flows next year to the San Joaquin River in California below a dam managed by the U.S. Bureau of Reclamation with the hope of returning salmon to the river channel.

The minimum goal of this act is to bring back a salmon population of 500 fish, alleged to have disappeared with the construction of the CVP in the 1930s.¹¹²

The San Joaquin River Restoration Settlement Act authorizes over \$1 billion in new spending over the next 20 years, allows for the use of eminent domain for the government to take privately owned farm land, and puts taxpayers on the hook for a costly state initiative.

Over the past 75 years, Congress appropriated hundreds of millions of dollars for the construction and operation of Friant Dam and canals serving Friant Division as irrigation works to benefit local farmers and the region's economy. Now the state expects the nation's taxpayers to pay to undo a project that has been costing the rest of the nation for decades.

CBO originally estimated that enacting similar legislation would increase net direct spending by \$190 million over the 2009-2018 period (it also would increase direct spending by about \$200 million over the 2019-2040

¹¹² NATURAL RESOURCES DEFENSE COUNCIL, et al., (Plaintiffs) v. UNITED STATES BUREAU OF RECLAMATION, et al., (Defendants), CIV NO. S-88-1658 - LKK/GGH, STIPULATION OF SETTLEMENT, Page 25, <http://www.fwua.org/settlement/supplemental/docs/settlementdocsn exhibits.pdf>

period). In addition, CBO estimates implementation would increase discretionary spending by \$271 million over the 2009-2018 period. Additional discretionary spending would occur after 2018 for further construction, operation, and maintenance of the project.¹¹³

In total, this provision is expected to cost taxpayers about \$1.1 billion,¹¹⁴ with direct spending deferred until after the ten-year pay-as-you-go window to mask its true cost.

With 15,000 farms and one million acres of productive farmland, the area currently drawing water from this dam is one of the most fertile in our country.¹¹⁵ In fact, five of the most agriculturally productive counties in our nation are in the San Joaquin Valley.¹¹⁶ Enacting the settlement will reduce the amount of water available for this area.¹¹⁷ The former Friant Water Users Authority board President predicted that such action will result in “a slow death for some farming.”¹¹⁸

Two analyses done in the late 1990s examined the economic impacts of water supply reductions¹¹⁹ and estimated the total cost of this settlement to the community at over \$10 billion when the loss of productive land, jobs, and related income tied to that production are considered.

This provision also grants the Secretary of the Department of Interior the right to acquire private property through eminent domain to implement the settlement.

¹¹³ Congressional Budget Office Cost Estimate of S. 27, July 29, 2008,

<http://www.cbo.gov/ftpdocs/96xx/doc9640/s27.pdf>

¹¹⁴ Thomas A. Schatz, “Extreme Makeover: San Joaquin River,” Tuesday, May 20, 2008, Citizens Against Government Waste, <http://www.cagw.org/site/News2?page=NewsArticle&id=11446>

¹¹⁵ Mark Limbaugh, Assistant Secretary Water & Science, Bureau of Reclamation, “U.S. Senate Energy and Natural Resources Committee, Subcommittee on Water and Power Hearing on S. 27, San Joaquin River Restoration Settlement Act,” May 03, 2007, <http://www.usbr.gov/newsroom/testimony/detail.cfm?RecordID=921>

¹¹⁶ Betsy A. Cody & Pervaze A. Sheikh, “Title X of S.22: San Joaquin River Restoration,” January 9, 2009, Congressional Research Service

¹¹⁷ Mark Limbaugh, Assistant Secretary Water & Science, Bureau of Reclamation, “U.S. Senate Energy and Natural Resources Committee, Subcommittee on Water and Power Hearing on S. 27, San Joaquin River Restoration Settlement Act,” May 03, 2007, <http://www.usbr.gov/newsroom/testimony/detail.cfm?RecordID=921>

¹¹⁸ Michael Doyle and Mark Grossi, “20 years of water war may end: Politicians cannot agree among each other,” January 10, 2009, The Fresno Bee (CA), <http://www.fresnobee.com/local/story/1120776.html>

¹¹⁹ Two studies released by the University of California (1996) and the Northwest Economic Associates (1997) were focused on the economic impacts of water supply reductions.

According to historical records, it is debatable whether or not the local salmon population was even healthy before the dam was built. In 1928, more than 15 years before Friant Dam was fully operational, the California Department of Fish and Game reported “very few” salmon remaining in the San Joaquin River above the confluence of the Merced River. The “historical” salmon fishery that once existed had already been severely depleted.¹²⁰

It is also uncertain that the suggested restoration plan will actually accomplish the goal of a thriving salmon population. The Congressional Research Service points out that:

“The San Joaquin River restoration will be complicated in several respects (e.g., size of area to be restored, southern limit of the species’ range, potential lack of unique genetic stock, extreme degradation of existing habitat, and potential climate change). Concerted attempts to restore salmon habitat in the Sacramento and San Joaquin River basins have produced encouraging results and success in some cases, but total success has been hard to claim in the short time these restoration efforts have been underway. As many of these projects have been conducted on small drainage areas, it would seem there is little precedent in California for the major restoration effort contemplated for the San Joaquin River.”¹²¹

\$250,000 to study whether Alexander Hamilton’s boyhood home in the U.S. Virgin Islands is suitable as a new National Park Unit

The bill authorizes \$250,000 for the National Park Service to study whether Alexander Hamilton’s boyhood estate at St. Croix in the U.S. Virgin Islands is suitable for designation as a new National Park unit.

Coincidentally the Trust for Public Land announced it would be buying the Estate the same week as the legislation passed the Energy Committee. In its announcement, the Trust said “will acquire it on behalf of the Virgin Islands and eventually, plans call for it to be protected by the National Park Service as a National Historic Site. ... The Trust is excited to be working

¹²⁰ Friant Water Users Authority (CA), San Joaquin River Case History, <http://www.fwua.org/settlement/supplemental/docs/SJRcasehistory.pdf>

¹²¹ San Joaquin River Restoration Settlement, November 9, 2007, Congressional Research Service, <http://apps.crs.gov/products/rl/pdf/RL34237.pdf>

with the government of the U.S. Virgin Islands and the National Park Service to preserve it.”

In this case, taxpayers are being asked to foot the bill for a study located on a tropical resort island in what appears to be a prearranged deal between the Park Service and the National Trust rendering the study unnecessary and wasteful.

Unspecified amount to launch a new federal initiative to conduct scientific voyages to locate and research historic shipwrecks

S. 22 establishes a new national ocean exploration program and undersea research program within the National Oceanic and Atmospheric Administration that is tasked, in part, to “conduct scientific voyages to locate, define, and document historic shipwrecks.” Nearly \$320 million is authorized to be spent on the new program over the next seven years.

While researching historic shipwrecks may be interesting, such an initiative is not a priority for the federal government at this time when our nation is sinking in a sea of red ink.

The U.S. Coast Guard, the Library of Congress, 12 private museums, and 8 libraries and historical societies are among the many private and public initiatives that document and/or contain research regarding shipwrecks.

Government Sources: 8

United States Coast Guard

Library of Congress

National Archives and Records Administration

International Revenue Service

Library of Congress: Geography and Map Division

Office of Distribution Services: Defense Mapping Agency

Smithsonian Institution: Museum of American History

Naval Historical Center: Ships History Branch

Federal Building and US Courthouse (Detroit): Great Lake Papers

Museums: 12

Chesapeake Bay Maritime Museum Library

Independence Seaport Museum

Marine Museum
Mariners Museum Library
Mystic Seaport Museum
National Maritime Museum
Outer Banks History Center
Peabody Museum of Salem
Steamship Historical Society of America
Texas Antiquities Committee
Lake Superior Marine Museum
Dossin Great Lakes Museum

Libraries and Historical Societies: 8

Buffalo and Erie County Historical Society
Burton Historical Collection
Detroit Historical Society
Great Lakes Historical Society
Institute for Great Lake Research
Marine Historical Society of Detroit
Milwaukee Public Library
Rutherford B. Hayes Library

Total Shipwreck Publications: 22

U.S. Government Shipwreck Publications: 9

Records in the Custody of the National Archives: 8

The Earmarks in the Lands Bill Challenge President Obama's Pledge to Clean Up the Earmark Process

The bill represents another direct challenge from Congress to President Obama's pledge to clean up the earmark process.

Last week, President Obama pledged to eliminate earmarks that did not serve a legitimate public purpose.

The President also said that each earmark must be scrutinized at public hearings. None of the individual earmarks were in the bill were subject to public hearings nor would many Americans describe earmarks like a \$3.5 million birthday bash for St. Augustine, Florida, a legitimate public purpose.