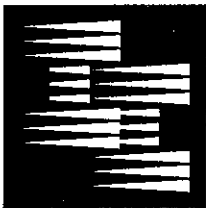


INDEPENDENCE ISSUE PAPER

do-93

Federal Land Acquisitions Need Better Cost Controls

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May 15, 1993

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Independence Institute Issue Briefs are short essays dealing with public policy questions. The Issue Briefs are meant to be suggestive rather than definitive, and to serve as starting points for further thought and inquiry.

"Our endangered plants and animals need you and The Nature Conservancy," the bold type reads. As the brochure explains: "When you join the 600,000 members of The Nature Conservancy (TNC), you team up with a unique nonprofit environmental force. Unique, because we do more than advocate conservation, we practice it - by purchasing the deserts, marshes, mountainsides, prairies, islands and wetlands that are threatened homes to endangered plants and animals."¹

While the Nature Conservancy's approach, as stated in its brochure, is laudable, the Conservancy's relationship to the federal government may be more controversial. The Nature Conservancy does not always retain land which it acquires. Instead, the Conservancy frequently sells or swaps its land to the federal government. Federal land acquisitions from groups such as the Nature Conservancy may be carried out at a substantial disadvantage to the federal taxpayers.

Between 65% and 90% of Nature Conservancy land acquisitions are eventually transferred to the federal government.² After investing \$25 Million into the Virginia Conservation Reserve, past TNC President Patrick Noonan told his staff not to worry: "You can sell it to the feds and get all your money back."³ From the Nature Conservancy's viewpoint, sales to the federal government make sense. Selling the land gives TNC capital with which to acquire more lands, which themselves can be sold, to generate capital for further land acquisitions. As long as the land transfers to the federal government are under terms which effectively prevent use of the transferred land in ways which would harm plants and animals, the land transfers are consistent with TNC's conservation objectives.

But some transfers may not always be consistent with the federal government's (theoretical) objective of spending tax dollars carefully. In May 1992, the Inspector General released an Audit Report of certain federal transactions involving the Nature Conservancy.⁴ In one land transaction detailed in the report, involving the Warner Valley Wetland in Oregon, the Bureau of Land Management (BLM) paid \$1.4 million for 5,529 acres of land for which TNC had paid \$1.26 million literally seconds before.⁵ TNC had acquired the right to the property by paying only \$100 for a purchase option agreement.

After the Inspector General's report was released, the Nature Conservancy was quick to point out: "We found no instance in which the Conservancy deviated from the policies of the Department of the Interior."⁶ The Nature Conservancy is correct; nothing in the Inspector

General's report suggested that the group had behaved in an unlawful manner.

The law itself, however, is not as clear as might be necessary in order to preserve scarce federal dollars. Commented William Perry Pendley, of the Mountain States Legal Foundation: "Surprisingly and unfortunately, the Solicitor fails to appreciate the seriousness of the scandal involving the DOI's land acquisition program. That multimillion dollar program is supported by a jerry-rigged assortment of Federal Statutes, Regulations, Guidelines, Executive Orders and Ethical Standards. Unfortunately, since none of these provisions apply *directly* to the Federal land acquisition program, the public interest is at risk."⁷

Recognizing that existing regulations might not fully protect the federal fisc, on January 25, 1993, the Department of the Interior (DOI) withdrew its *Guidelines for Transactions Between Non Profit Organizations and the DOI* because "the Government's interests were not always protected and that Non Profit Organizations benefitted unusually from some of the transactions."⁸ The Inspector General has also decided to reexamine all previous Department of Interior land transactions with non-profits.

Two issues concerning fiscal issues in the federal land transfers are especially important. First of all, the government routinely uses appraisals provided by the selling Land Trusts to establish land valuations.⁹ No first-time home-buyer would be foolish enough to agree to a sale price based only on an appraisal conducted by the seller.

Second, overhead and other expenses for non-profit organizations may be reimbursed with little or no documentation; overhead on some transactions can run as high as \$500,000.¹⁰ The overhead problem is hardly unique to the Department of the Interior. The Environmental Protection Agency, for example, hires outside Superfund contractors and requires alleged polluters to pay EPA's contracting expenses based on very minimal documentation.

Carefully-drawn legislation addressing these two issues could ensure that federal land acquisitions are conducted in a manner which simultaneously achieves two important goals: conserving wilderness, and conserving taxpayer dollars. If the federal government began to demonstrate as much financial savvy as the Nature Conservancy (or at least as much savvy as a first-time home buyer), public confidence in federal land acquisitions would increase.

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1. TNC Brochure CB 1992

2. *Organization Trends*, July 1991, p.2. 1612 K St NW Suite 704 Washington D.C. 20006

3. *Organizational Trends*, July 1991, p.2

4. IG Report No. 92-I-833, May 1992

5. Inspector General Report No 92-I-833, May 1992, P.8

6. TNC News, Arlington, VA. 22209, June 5, 1992, P.3

7. FEDERAL LAND ACQUISITION PROGRAM: QUESTIONABLE LAW- TERRIBLE POLICY, P.7. William Pendley, Mountain States Legal Foundation, 1660 Lincoln St. Denver, CO 80264.

8. *Federal Register*/Vol.58, No 14 / Monday, January 25, 1993

9. See the IG Report 92-I-833, May 1992, Page 16 et seq.

10. *Ibid*, P.6: *LITTLE RIVER WILDLIFE REFUGE*, Oklahoma, 1988-1989.