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PERVERTING THE TRUST

PRIVATE CHARITABLE LAND PRESERVATION ORGANIZATIONS AS GOVERNMENT ACQUISITION AGENTS

By Carol W. LaGrasse

Land trusts were originally a perfect vehicle for privatized environmental protection. Today, however, colossal environmental land brokerage organizations are a channel for innocent, environmentally minded citizen donors to unknowingly pool their resources with the taxing power of state and federal governments to wrest land from private ownership.

The idea of preserving land and protecting wildlife through community or corporate ownership fits the traditional American system of free enterprise, restricted government, private land ownership and voluntary social action. Historically, until the 1970's, this form of participation by private charitable organizations in land preservation was the rule. In the eighteenth century, wealthy entrepreneurs formed exclusive clubs with vast holdings of rural land for their private hunting and vacationing. In this century, The Nature Conservancy

drew from the groundswell of support for environmental issues in the 60's and 70's to broaden its basis of funding for its preserves for prized wildlife and habitats.

Land trusts have continuing appeal based on their original operation to privately preserve land, befitting the American tradition of local control, a minimum of government, and "can-do" social responsibility. By pooling resources, members of environmentally minded groups hope to contribute a share toward a far larger preservation project than they could finance alone.⁽¹⁾

But, generally speaking, non-profit land trusts do not operate in the tradition the American public has in mind when it supports their work. Instead, the major land trusts are shadow real estate brokers for the federal and state governments.

Betraying our constitutional heritage of private ownership of property, the land trusts are key players in the perverse movement of land to government ownership.

The Nature Conservancy, by far the largest environmental organization in the U.S. with \$278 million annually in revenues⁽²⁾, could not accomplish its biodiversity preservation objectives without access to the taxing power of state and federal government. The vast network of National Parks, National Forests, wilderness areas and other federal designations, state parks, greenways and riverways, ecosys-

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THE VULNERABILITY OF ELITES **PEOPLE WHO KNOW FREEDOM WILL NOT SETTLE FOR LESS**

Anger is sweeping the country. The incomprehensible act of terrorism at Oklahoma City has caused the liberal media to take note, although in a distorted way, that thousands of ordinary, upstanding citizens are forming militias.

Liberals protest that capitalism has left hard-working Americans behind as technology and global production takes over work places.

The only solution to insecurity, they say, is more therapeutic government.

But workers aren't organizing militias against corporation power. People are afraid of **government**.

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Expanded Issue: Land Trust Power

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tems, and broader areas to be gradually restored to a pristine nature require a freedom and spectrum of land acquisition methodologies that have several essential places for the land trusts.

The land trusts and government environmental agencies have a fundamentally symbiotic relationship.

The land trusts cannot operate at their current financial level or accomplish their biodiversity preservation objectives through land acquisition without access to the taxing power of government; the government environmental land owning and preservation agencies need the land trusts to acquire land conveniently without the inconvenience of full legislative and bureaucratic review and public scrutiny and with a minimal use of publicly offensive eminent domain.

Environmental government gains the participation of the ideologically committed and the continuity and national viewpoint that not-profits bring with their ecosystem visions, biodiversity surveys and such. Environmental government also gains a free cadre of environmental worker bees. These non-profits, in turn, have in the past generated a steady, growing level of political support for environmentalism and therefore for legislative backing for increased funding for the government bureaucracies. Through their local chapters and spin-off land trusts, they support government environmental programs and land acquisition at local, regional, state and federal levels.

Performing Government Functions without Public Scrutiny or Responsibility to the Public

Typically, a non-profit land trust like The Nature Conservancy or the Trust for Public Land has a verbal or written commitment from a top bureaucrat in a Federal or State environmental agency that the governmental agency will purchase a parcel or an area of land if the not-profit will acquire the land.

The agreements that land trusts make to be straw men for government are secret and the process by which they are accomplished are secret. The Legislatures and Congress have passed enabling legislation for the use of

non-profits in land acquisition, land management, law enforcement and a multitude of environmental areas. In fact, non-profit organizations that are under scrutiny by Congress received more than \$10 billion annually from the federal government, according to the *Wall Street Journal*.⁽³⁾ The spirit and operation of non-profits as an arm of government is perceived by liberals to be an ideal aspect of their agenda. Yet it contradicts one of the finest achievements of liberalism, the enactment of open government, or "Sunshine," legislation.

A non-profit organization can not be "FOILED" (subjected to demands by citizens for information under the Freedom of Information laws). Its meetings and operations are not subject to Open Government laws.

Not-profits act as an arm of government but their directors are not elected by the citizens and their terms of office are indefinite. They are exempt from the legislated controls on that often-abusive extension of representative government, the bureaucracy.

The services of not-profits are procured to acquire land without the honing of competitive bidding. Their finances are not audited by the government comptrollers and legal scrutiny by the attorney generals is not applicable.

All of their acquisitions are exempt from Federal NEPA (National Environmental Policy Act) review and from State environmental quality review acts such as New York's SEQRA. When the lands they acquire are, in turn, acquired by government, the environmental review process is often short-circuited.

Secrecy is more feasible by using non-profits for land acquisition

Public hearings are not required of non-profit organizations under administrative procedure law regulating government agencies. The public only learns through the grapevine and piecemeal when massive non-profit land acquisition on behalf of upper level government is taking place in a community. News media are disinterested and neither the government, which intends to "benefit" from the secret acquisition, nor the wealthy corporations and

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WHERE ENVIRONMENTAL POWER MONEY COMES FROM

- GRANTS FROM WEALTHY FOUNDATIONS - Such as Rockefeller's \$1 billion American Conservation Association, their other philanthropies, and foundations of Ford, Mellon, MacArthur, Pew families, etc.
- SALES OF LAND TO GOVERNMENT - For Federal & State preserves, greenways and parks the environmentalists lobbied for.
- DONATIONS & GRANTS - From individuals & corporations - including multinationals that environmentalists label biggest polluters.
- GOVERNMENT GRANTS, CONTRACTS & FOREIGN AID - For environmental studies, biological surveys, environmental land management, and other purposes.
- MEMBERSHIPS, SUBSCRIPTIONS, BOOK & MERCHANDISE SALES
- ENVIRONMENTAL BOUNTY HUNTING - Corporate settlements from litigation to enforce environmental laws such as Clean Water Act.
- BEQUESTS - Of money & land, willing or swindled, as The Nature Conservancy attempted with the Indiana farm of a dying doctor, Frederic Gibbs.
- COERCED AND/OR BELOW-VALUE LAND SALES - From frightened or financially strapped rural landowners and from government.
- REAL ESTATE, INCOME TAX, AND ESTATE TAX - Favors to "not-profits" to detriment of other landowners and taxpayers.

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elites who help fund the not-profits, dole out funds to civic groups to do the extensive deed searches and monitoring and make the public aware of the land grabs quietly taking place. A local municipal assessor, already strapped for time and funds, may feel concern at the transfers, especially for their tax impact, but the assessor will be stymied from affective action to alert the public. And even if the public were alerted, the public in any particular locality will have difficulty influencing the operations of a non-profit which is well funded by government and others to implement their broadly established environmental policy goals.

Contrast the process by which lands are acquired for government by not-profits to the way lands have been traditionally acquired to build highways. In a normal, simplified situation, the highway is designed, the plan is subject to public hearings, revisions and rehearings take place, the final designs proceed, and the land is acquired openly through eminent domain. For environmental lands, meetings of government officials and not-profits take place in secrecy, and an agenda is laid out secretly for the acquisition of a particular parcel of land which fits an official state or federal land acquisition policy often broad enough to preclude definite information that would alarm a community. **Notices are never given to property owners.**

The National Forest Service may acquire land *beyond*

The public would rebel if the true extent of not-profit land acquisition were exposed

If environmental land acquisition were accomplished as bluntly as highway land acquisition, the resulting controversy would stymie environmental goals.

That is why the obvious reportage of environmental acquisition to localities is never done. No one puts up a chart of not-profit and government land acquisition month by month in the town hall to inform the public and home owners of the "progress" of environmental goals in their community. It falls to the under-funded civic activist to bemoan his or her inability to publish the information.

official forest borders, which is underway in the area around the Hoosier National Forest in Indiana.

New York State's noxious land acquisition plan, is so broad that it occupies a 324 page book. For the Hudson shorefront alone, 60 areas containing many parcels are listed. This plan vaguely lays out the transfer of a significant portion of the real estate and tax base of many towns and even counties to the non-profit and government sector. Yet a blanket "no-impact" environmental declaration is claimed for the *entire plan* and each individual transfer of land from the private sector is thereby fraudu-

lently exempted from public review.

In the course of acquiring a parcel for government via a not-profit land trust, a letter of intent, inaccessible to FOIL requests, may be written. A map may be laid out with a number of parcels being acquired by various entities for later recombination into a park, but the map may not be subject to FOIL, even if it is in a State office. In the non-profit office the FOIL right does not exist. Instead of the openness of eminent domain, a purchasing agent of the non-profit may first approach land owners who are in arrears in taxes, and buy their land. Next the agent may approach key large parcel owners offering expertise on getting around inheritance taxes or real property taxes by trust or easement arrangements, often involving the not-profit. As years pass, other owners may find that they are hemmed in on 2 or 3 sides by the not-profit. Lands may transfer to the government, and so on, gradually, until over several years more and more of the area that was the subject of secret discussions between the not-profit and government has found its way into not-profit or government ownership.

A major change in land ownership pattern in the community, all at the behest of government and elite insiders, has taken place with no opportunity for environmental review or public hearings. Unlike the situation where the land was acquired for the highway by an open, direct process, the non-profit land acquisition methods were secretive and exempt from public scrutiny.

The non-profits may operate to acquire land for government with a far longer time frame in mind, however. Land trusts like the Open Space Institute and Scenic Hudson, operating in lower New York State in the Hudson and adjacent mountains, may be purchasing land for government even without any formal commitment. The elites who deal in de-privatization of land for environmental purposes are of such one mind with the government zealots that they may plan together for the gradual preservation of land by an acquisition process that divvies the responsibilities. *Someday, the next step may take place. The arrogance and wealth are so great, that no matter exactly when or how the arrangements transpire, the fluidity of the non-profits-government relationship will serve to ultimately finalize the transition.*

Information is in the hands of the environmental elites, not the property owner or public

In the meantime, The Nature Conservancy may be learning more about the private property of a landowner than he knows himself. Unknown to the landowner, individuals working in conjunction with the Conservancy may have located endangered species or historic resources on his property and transferred the information to the biodiversity mapping projects The Nature Conservancy has in conjunction with the state governments and state universities.

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The biological information on a private parcel may be in refinement comparable to pinpointing ore deposits if the mapping were geological. But this is not the government finding a gold mine free of charge to the private property owner. These biological details are liabilities that can be the cause of a government land-grab.

Land trusts need not lobby

One of the attributes of land trusts, it is said, is that they do not lobby government, as often do national environmental groups such as the National Audubon Society and the Wilderness Society.

The land trusts hardly need to lobby. They operate as the right hand and as part of the mind of environmental government. Their agendas are lobbied by others. Their riches generated by the river of cash flowing from government, corporations, and elite wealth enables them to freely advance their agendas where government has not yet reached their priorities.

The land trusts have the most powerful, wealth aggrandizing, inside position of the tremendous melding of interests and actions of environmental groups. By their sheer size and membership, they have acquired a level of power that the question of how to cut down their influence is not easily answered.

Foreign aid - An international insider

The international effort of The Nature Conservancy received \$2,222,000 in foreign aid from the American taxpayers in U.S. AID grants according to the 1995 report of the U.S. Agency for International Development.

Their great fallacy, the lack of public scrutiny they face while performing government function, is the key. The scrutiny they deserve will reveal the extreme corruption of their methods and diminish the lily-white public image that enables the present system to continue.

In a free country, land trusts have a right to organize and preserve land. By the same token, citizens have the right, through the representative process, to alter the real estate tax structure to restrict or remove the tax breaks for land trusts. Why should local citizens, economically restricted by land preservation, grant a tax exemption to land trusts and absorb a tax shift caused by their wholesale land acquisitions, contrary to the community interest?

As citizens become aware that non-profit land trusts are serving primarily as real estate brokers for government, it can be expected that their non-profit status will be challenged in the legislature, if not in the light of current law.

This challenge should succeed because the widespread use of non-profits as real estate brokers is a business rather than a charitable purpose.

But more fundamentally, Americans are beginning to realize that it is impossible for their freedom to stop eroding unless the flow of resources to government ownership is checked. The funding of land trusts to broker private property to government is against the public interest.

(1) These straightforward land trusts still exist locally in rural and urban settings. The Boston-based Institute for Community Economics has preserved neighborhoods against gentrification using common trust ownership of apartment buildings, for example.

(2) 1993

(3) "Republicans Take Aim at Left-Leaning Groups That Get Federal Grants for Assistance Programs" Christopher Georges, *The Wall Street Journal*, May 17, 1995