

AMERICAN LAND SOVEREIGNTY PROTECTION ACT

SEPTEMBER 5, 1997.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 901]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 901) to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired lands, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “American Land Sovereignty Protection Act”.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) The power to dispose of and make all needful rules and regulations governing lands belonging to the United States is vested in the Congress under article IV, section 3, of the Constitution.

(2) Some Federal land designations made pursuant to international agreements concern land use policies and regulations for lands belonging to the United States which under article IV, section 3, of the Constitution can only be implemented through laws enacted by the Congress.

(3) Some international land designations, such as those under the United States Biosphere Reserve Program and the Man and Biosphere Program of the United Nations Scientific, Educational, and Cultural Organization, operate

under independent national committees, such as the United States National Man and Biosphere Committee, which have no legislative directives or authorization from the Congress.

(4) Actions by the United States in making such designations may affect the use and value of nearby or intermixed non-Federal lands.

(5) The sovereignty of the States is a critical component of our Federal system of government and a bulwark against the unwise concentration of power.

(6) Private property rights are essential for the protection of freedom.

(7) Actions by the United States to designate lands belonging to the United States pursuant to international agreements in some cases conflict with congressional constitutional responsibilities and State sovereign capabilities.

(8) Actions by the President in applying certain international agreements to lands owned by the United States diminishes the authority of the Congress to make rules and regulations respecting these lands.

(b) PURPOSE.—The purposes of this Act are the following:

(1) To reaffirm the power of the Congress under article IV, section 3, of the Constitution over international agreements which concern disposal, management, and use of lands belonging to the United States.

(2) To protect State powers not reserved to the Federal Government under the Constitution from Federal actions designating lands pursuant to international agreements.

(3) To ensure that no United States citizen suffers any diminishment or loss of individual rights as a result of Federal actions designating lands pursuant to international agreements for purposes of imposing restrictions on use of those lands.

(4) To protect private interests in real property from diminishment as a result of Federal actions designating lands pursuant to international agreements.

(5) To provide a process under which the United States may, when desirable, designate lands pursuant to international agreements.

SEC. 3. CLARIFICATION OF CONGRESSIONAL ROLE IN WORLD HERITAGE SITE LISTING.

Section 401 of the National Historic Preservation Act Amendments of 1980 (Public Law 96-515; 94 Stat. 2987) is amended—

(1) in subsection (a) in the first sentence, by—

(A) striking “The Secretary” and inserting “Subject to subsections (b), (c), (d), and (e), the Secretary”; and

(B) inserting “(in this section referred to as the ‘Convention’)” after “1973”; and

(2) by adding at the end the following new subsections:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 4. PROHIBITION AND TERMINATION OF UNAUTHORIZED UNITED NATIONS BIOSPHERE RESERVES.

Title IV of the National Historic Preservation Act Amendments of 1980 (16 U.S.C. 470a–1 et seq.) is amended by adding at the end the following new section:

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

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

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

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

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

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

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

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

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

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

SEC. 5. INTERNATIONAL AGREEMENTS IN GENERAL.

Title IV of the National Historic Preservation Act Amendments of 1980 (16 U.S.C. 470a–1 et seq.) is further amended by adding at the end the following new section:

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

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

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

“(d) This section shall not apply to—

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

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

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

SEC. 6. CLERICAL AMENDMENT.

Section 401(b) of the National Historic Preservation Act Amendments of 1980 (16 U.S.C. 470a-1(b)) is amended by striking “Committee on Natural Resources” and inserting “Committee on Resources”.

PURPOSE OF THE BILL

H.R. 901 will restore the Constitutional role of Congress in managing lands belonging to the United States, preserve the sovereignty of the United States over these lands, and protect State sovereignty and private property rights in non-federal lands adjacent to federal lands.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 901 asserts the Constitutional power of Congress over management and use of lands belonging to the United States. Under Article IV, section 3 of the United States Constitution, the power to make all needful rules and regulations governing lands belonging to the United States is vested in Congress. Yet over the last 25 years, an increasing expanse of our nation’s public lands have been included in various international land use programs, most notably United Nations Biosphere Reserves and World Heritage Sites, with virtually no Congressional oversight or approval. The international agreement covering World Heritage Sites, for example, largely leaves Congress out of the nomination process.

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

In becoming a party to these international land use agreements through Executive Branch action, the United States may be indirectly agreeing to terms of international treaties, such as the Convention on Biological Diversity, to which the United States is not a party or which the United States Senate has refused to ratify. For example, *The Seville Strategy for Biosphere Reserves* recommends that participating countries “integrate biosphere reserves

in strategies for biodiversity conservation and sustainable use, in plans for protected areas, and in the national biodiversity strategies and action plans provided for in Article 6 of the Convention on Biological Diversity.” Furthermore, the *Strategic Plan for the U.S. Biosphere Reserve Program* published in 1994 by the U.S. State Department states that a goal of the U.S. Biosphere Reserve Program is to “create a national network of biosphere reserves that represents the biogeographical diversity of the United States and fulfills the internationally established roles and functions of biosphere reserves.”

Also disturbing is that designation of Biosphere Reserves and World Heritage Sites rarely involves consulting the public and local governments. At two hearings held on H.R. 901 and another hearing held on a similar bill in the 104th Congress (H.R. 3752), state and local elected officials as well as grassroots citizen activists from Alaska, Arkansas, Missouri, Minnesota, New Mexico, and New York testified that no one consulted with the public or local governments when international land designations were made in their states. The domestic designation process for World Heritage Sites and Biosphere Reserves is so controversial that the Alaska and Colorado state legislatures both have passed resolutions in support of H.R. 901. In addition, the Kentucky State Senate recently passed a resolution opposing creation of any biosphere reserves within Kentucky and supporting the concepts embodied in H.R. 901.

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

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

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

Federal regulatory actions could cause a significant adverse impact on the value of private property and on the local and regional economy. The involvement of the World Heritage Committee (WHC) in the National Environmental Policy Act review process for the New World Mine Project near Yellowstone National Park, a World Heritage Site, exemplifies this problem. The New World Mine Project is outside of the boundary of Yellowstone National Park and is not included in the World Heritage Site. In fact, nearly

all of the proposed minesite is located on private property, and U.S. law (16 U.S.C. 470a-1(c)) prohibits including any non-federal property within a U.S. World Heritage Site without the consent of the owner.

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

It is clear from this example, that at best, World Heritage Site and Biosphere Reserve designations give the international community an open invitation to interfere in U.S. domestic land use decisions. More seriously, these international agreements potentially have several significant adverse effects on the American system of government. Federal land use policy making authority is further centralized at the federal/Executive Branch level, and the role that ordinary citizens have in the making of this policy through their elected representatives is diminished. The Executive Branch may also invoke these international agreements in an attempt to administratively achieve an action within the jurisdiction of Congress, but without consulting Congress.

COMMITTEE ACTION

H.R. 901 was introduced on February 27, 1997, by Congressman Don Young (R-AK). The bill was referred to the Committee on Resources.

On May 5, 1997, the Committee held a field oversight hearing in Tannersville, N.Y. on the U.S. Man and Biosphere Program. Ten witnesses testified.

Seven witnesses, including a Member of Congress, supported H.R. 901. The Honorable Gerald B.H. Solomon (R-NY), testifying in support of H.R. 901, stated that the Champlain-Adirondacks Biosphere Reserve, in the northern part of his district, was designated in 1989 without Congressional hearings or any input from local citizens. He also said that the nomination of the Catskills region (including the Tannersville area) as a Biosphere Reserve was withdrawn after strong opposition was expressed by federal, state and local officials and residents of the region. Local elected officials confirmed that there is little or no input by the public or elected officials into Biosphere Reserve designations. A town supervisor from the Adirondacks region said, "Most of us didn't find out [about the Champlain-Adirondacks Biosphere Reserve] until the next year. We need H.R. 901 so citizens are included, local government can have a voice and Congress can oversee this program," he added.

Three witnesses, including two from local environmental groups, opposed H.R. 901. They contended that a Biosphere Reserve designation is honorary, boosts tourism and helps bring funds for scientific research. They also said that requiring Congressional approval of these designations would impose an unnecessary restriction on the program. One of the local environmental witnesses stat-

ed, "Congress is simply too unwieldy to deal with this [Biosphere Reserve nominations]."

On June 10, 1997, the Committee held a legislative hearing in Washington, D.C., on H.R. 901. A total of 13 witnesses testified.

Nine witnesses, including two state legislators, testified in support of H.R. 901. As during earlier hearings, elected officials and citizen activists confirmed that there is little or no input by the public or elected officials into World Heritage or Biosphere Reserve designations. One witness from Arkansas outlined the problems associated with the proposed "Ozark Highland Man and Biosphere Plan" which was advanced without public input and which has now apparently been withdrawn after strong public opposition developed following discovery of the proposal. Another witness, a rancher from Arizona, while supporting H.R. 901, said the bill did not go far enough. He related how an environmental group is attempting to get a 60-acre privately-owned livestock watering hole on his family ranch listed as an international "wetland of importance" under a little-known wetlands treaty, the Ramsar Convention. He stated, "We do not believe as a family that we need that international oversight" and went on to recommend that H.R. 901 include the Ramsar Convention. A Cornell University professor of government testified that a serious principle is at stake in these international land reserve programs. He said, "Our government should be accountable to our people and should not be bringing in foreign authorities and parading them around as if they have some important say-so about what the American people do with their own resources in this county. . . . I think it is very reasonable of Congress to put its foot down and say we don't want to be involved in this, and certainly, we don't want to be involved in this without Congressional say-so, case-by-case," he added.

The Acting Director, National Park Service, stated that the Interior Department opposes H.R. 901 and would recommend that the President veto the bill, if passed by Congress.

The Deputy Assistant Secretary for Oceans and International Environmental and Scientific Affairs, Department of State, testified that the Department of State strongly opposes H.R. 901. He further stated that the State Department supports both the World Heritage Convention and the United States Man and Biosphere Program.

Two witnesses, one from an environmental group and another from a historical preservation group, opposed H.R. 901. They asserted that, if enacted, H.R. 901 would straitjacket U.S. implementation of the World Heritage Convention and other international treaties and voluntary programs designed to conserve our natural and cultural heritage. The environmental witness further testified that the biosphere reserve program is a voluntary program, involving federal-state-local partnerships. He added that this program "plays a constructive role in the conservation and management of our nationally significant resources, state and local environments, and local economies."

On June 25, 1997, the Full Resources Committee met to consider H.R. 901. Based on testimony during the legislative hearing, Congresswoman Helen Chenoweth (R-ID) offered an amendment to require Congressional approval of sites nominated under the Ramsar

Convention on International Wetlands. The amendment was adopted by voice vote. The bill as amended was then ordered favorably reported to the House of Representatives by a roll call vote of 26–9, as follows:

Committee on Resources
U.S. House of Representatives
105th Congress

Full Committee

Date 6-25-97Roll No. 1Bill No. HR 901 Short Title American Land Sovereignty Protection Act

Amendment or matter voted on: _____

FINAL PASSAGE

Mr. Young (Chairman)	X			Mr. Miller			
Mr. Tauzin	X			Mr. Markey		X	
Mr. Hansen	X			Mr. Rahall			
Mr. Saxton				Mr. Vento		X	
Mr. Gallegly	X			Mr. Kildee		X	
Mr. Duncan				Mr. DeFazio		X	
Mr. Hefley	X			Mr. Faleomavaega	X		
Mr. Doolittle	X			Mr. Abercrombie		X	
Mr. Gilchrest	X			Mr. Ortiz			
Mr. Calvert	X			Mr. Pickett			
Mr. Pombo	X			Mr. Pallone			
Mrs. Cabin	X			Mr. Dooley	X		
Mrs. Chenoweth	X			Mr. Romero-Barcelo			
Mrs. Linda Smith	X			Mr. Hinchey		X	
Mr. Radanovich	X			Mr. Underwood	X		
Mr. Jones	X			Mr. Farr		X	
Mr. Thornberry	X			Mr. Kennedy		X	
Mr. Shadegg	X			Mr. Adam Smith			
Mr. Ensign	X			Mr. Delahunt		X	
Mr. Bob Smith	X			Mr. John			
Mr. Cannon	X			Ms. Green			
Mr. Brady	X			Mr. Kind			
Mr. Peterson				Mr. Doggett			
Mr. Hill	X						
Mr. Schaffer							
Mr. Gibbons	X						
Mr. Crapo	X			TOTAL	26	9	

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title.

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

Section 2. Findings and Purpose.

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

This section further states that the purpose of H.R. 901 is to assert the power of Congress over the management and use of lands belonging to the United States, to protect State powers not reserved to the federal government, and to ensure that no United States citizen suffers any diminishment or loss of individual rights or private property rights as a result of federal actions designating lands pursuant to international agreements.

Section 3. Clarification of Congressional Role in World Heritage Site Listing.

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

Section 4. Prohibition and Termination of Unauthorized United Nations Biosphere Reserves.

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

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

Section 5. International Agreements in General.

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

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

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

Section 6. Clerical Amendment.

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

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

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

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 and Article IV, section 3 of the Constitution of the United States grants Congress the authority to enact H.R. 901.

COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 901. However, clause 7(d) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the

Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives, and section 308(a) of the Congressional Budget Act of 1974, H.R. 901 does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

2. With respect to the requirement of clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 901.

3. With respect to the requirement of clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 901 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 1, 1997.

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

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 901, the American Land Sovereignty Protection Act.

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

Sincerely,

JUNE E. O'NEIL, *Director.*

Enclosure.

H.R. 901—American Land Sovereignty Protection Act

CBO estimates that enacting H.R. 901 would have no significant impact on the federal budget. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. H.R. 901 contains no private-sector or intergovernmental mandates as defined in the Unfunded Mandates Reform Act of 1995 and would have no impact on the budgets of state, local, or tribal governments.

H.R. 901 would prohibit any federal official from nominating or designating any federal land for a special or restricted use under any international agreement unless specifically authorized by law, with certain exceptions. Moreover, the bill would make ineffective the designation of any area in the United States under such agreements unless the designation is specifically authorized either in written permission (from the landowner for private property), or by state or local law (for property owned by such governments). Des-

ignations of federal land would be ineffective as well, unless authorized by federal legislation enacted after enactment of H.R. 901 but before December 31, 2000. These provisions would affect designations of land under programs such as the World Heritage List and the Man and Biosphere Program of the United Nations. H.R. 901 would require the Secretaries of State and the Interior to submit annual reports to the Congress on each site designated under these programs. In addition, before nominating any federal property for the World Heritage List, the Secretary of the Interior would have to report to the Congress on the area's natural resources and the effects that the listing would have on existing or future uses of the site or other lands within a 10-mile range.

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

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

COMPLIANCE WITH PUBLIC LAW 104-4

H.R. 901 contains no unfunded mandates.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

THE NATIONAL HISTORIC PRESERVATION ACT AMENDMENTS OF 1980

* * * * *

TITLE IV—INTERNATIONAL ACTIVITIES AND WORLD HERITAGE CONVENTION

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

(b) The Secretary of the Interior shall periodically nominate properties he determines are of international significance to the World Heritage Committee on behalf of the United States. No property may be so nominated unless it has previously been determined to be of national significance. Each such nomination shall include evidence of such legal protections as may be necessary to ensure preservation of the property and its environment (including restrictive covenants, easements, or other forms of protection). Before making any such nomination, the Secretary shall notify the [Committee on Natural Resources] *Committee on Resources* of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

* * * * *

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

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

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

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

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

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

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

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

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

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

(B) the natural resources associated with the property;

and

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

(2) the Secretary is specifically authorized to assent to the inclusion of the property on the list, by a joint resolution of the

Congress after the date of submittal of the report required by paragraph (1).

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

- (1) An accounting of all money expended to manage the site.*
- (2) A summary of Federal full time equivalent hours related to management of the site.*
- (3) A list and explanation of all nongovernmental organizations that contributed to the management of the site.*
- (4) A summary and account of the disposition of complaints received by the Secretary related to management of the site.*

* * * * *

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

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

- (1) is specifically authorized by a law enacted after that date of enactment and before December 31, 2000;*
- (2) consists solely of lands that on that date of enactment are owned by the United States; and*
- (3) is subject to a management plan that specifically ensures that the use of intermixed or adjacent non-Federal property is not limited or restricted as a result of that designation.*

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

- (1) An accounting of all money expended to manage the reserve.*
- (2) A summary of Federal full time equivalent hours related to management of the reserve.*
- (3) A list and explanation of all nongovernmental organizations that contributed to the management of the reserve.*
- (4) A summary and account of the disposition of the complaints received by the Secretary related to management of the reserve.*

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

dent of the Senate proposals for legislation authorizing such a nomination, classification, or designation.

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

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

(d) This section shall not apply to—

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

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

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

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DISSENTING VIEWS OF THE HONORABLE GEORGE MILLER, THE HONORABLE WILLIAM D. DELAHUNT, THE HONORABLE NEIL ABERCROMBIE, THE HONORABLE BRUCE F. VENTO, THE HONORABLE MAURICE D. HINCHEY, THE HONORABLE EDWARD J. MARKEY, THE HONORABLE FRANK PALLONE, JR. AND THE HONORABLE SAM FARR

H.R. 901 is an unjustified and unnecessary bill that addresses a phantom problem. It unfortunately caters to the suspicions and conspiracy theories of a tiny number of extreme organizations and individuals. It would seriously damage continued U.S. participation in important international efforts to protect and preserve valuable lands throughout the world, and it should therefore not be passed by the House.

Under six Presidents—four Republicans and two Democrats—the World Heritage Convention has been successfully implemented by the Department of the Interior. In fact, the Convention was a United States initiative and the United States was the first nation to ratify it in 1973. There are 20 United States sites on the World Heritage List, 17 of which are National Parks.

Under the Convention a site may only be nominated to be listed by the country in which it lies. A site may only be listed if it contains cultural or natural resources of universal value, and if the national government provides a certain level of protection for the site. Listing as a World Heritage Site imposes no change in domestic law nor any requirement for future changes in domestic law. It does not give oversight, management or regulatory authority to any foreign national or organization. In short, the legal protection of a World Heritage Site is entirely the responsibility of the nation in which it lies.

The U.S. Man and the Biosphere Program attempts to facilitate a more sustainable relationship between human beings and their natural environment by identifying areas rich in natural resources that are also suited to the program's cooperative approach. It brings local and regional stakeholders to the table in a voluntary joint planning effort, and provides technical assistance and limited research funding to relevant projects. A United States Biosphere Reserve is an honorific designation by the United States Man and the Biosphere Program, which is a domestic federal program. It does not place any lands or resources under the control of the United Nations or any other international body. As with World Heritage designations, Biosphere Reserve status does not impose or imply any land or natural resource use restrictions above and beyond those already in place under federal, state, and local law.

For over 20 years, these programs have functioned effectively and with little controversy. Far from subjecting the American people to UN hegemony, these programs have allowed the United States to export its vision of parks to the world. This misguided legislation distorts the objectives and role of these programs by

hinting at threats to United States sovereignty and the undermining of domestic law by these beneficial programs. These allegations are pure fantasy.

At full Committee markup, an amendment was adopted that makes this bad bill even worse. In versions of this legislation reported by the Committee last Congress and introduced this Congress, the Department of Interior would still have been allowed to nominate wetland sites for listing under the Convention on Wetlands of International Importance Especially as Waterfowl Habitat, commonly known as the Ramsar Convention. This treaty facilitates the conservation of waterfowl by providing for coordination among nations containing significant waterfowl habitat and by maintaining a list of wetlands sites of international significance. Although the Department of the Interior has not received a nomination, the majority, apparently based solely on newspaper reports of a possible nomination of various sites in Arizona, chose to undermine this highly successful international conservation effort by subjecting it to the same strictures as are imposed on World Heritage sites by this legislation.

At the markup, considerable discussion was devoted to the idea that, by allowing the Department of the Interior or other agencies to convey these honorific designations on areas within the United States, Congress has somehow shirked its Constitutional duty to oversee public lands. We find this argument specious because these designations do not affect the use, management, or disposition of public lands. Therefore, Congress' authority over these lands is not affected in any way. Secondly, in the case of the World Heritage Convention, Congress has expressly delegated the authority to designate U.S. sites to the Secretary of the Interior.

If Congress genuinely wishes to micromanage these international programs, it could assume that responsibility. However, the majority has not demonstrated any intention of supporting future legislation to nominate United States sites under the World Heritage or Ramsar Conventions, or to designate United States Biosphere Reserves. Rather than providing for better "Congressional oversight", this legislation will effectively end United States participation in these prestigious international programs.

The majority would do better to address a multitude of serious issues that affect our natural resources—including the deteriorating condition of our national parks, the outdated park concessions program, the antiquated mining laws, and the multitude of resource subsidies that encourage environmental degradation at enormous cost to the taxpayer. Instead, the majority wastes the time of the Committee and the House with this needless legislation whose rationale is better suited to supermarket checkout counter tabloids than the floor of the House of Representatives.

GEORGE MILLER,
Senior Democrat, Committee
on Resources.

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