

CONSERVATIVE ENVIRONMENTAL POLICY—QUARTERLY

# C.E.P. Quarterly

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This quarter's topics:

## ***Prudent Risk Management***

## **Risk and Responsibility** by David Jenkins

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When I read news accounts of people who choose to build a new house adjacent to a protected wilderness area, only to complain to state wildlife officials when a wild animal wanders into their yard, it makes me a bit crazy. I get the same reaction when I fly over the desert environs of Phoenix and see green grass and a swimming pool in every yard, or when I hear a guy who has just been flooded out of his home for the sixth time, vowing to rebuild in the same location.

Prudent decision-making—and the belief that people must take personal responsibility for the decisions they make—is fundamental to conservatism. As the great conservative theorist Russell Kirk put it, "Every right is married to a duty, every freedom owes a corresponding responsibility."

Too many people today make decisions about the location and construction of their homes with little regard for anything other than immediate personal gratification. They want a pristine mountain view, but demand protection from the wildlife or fire danger that comes with it. They want to live near a river, but they expect taxpayers to help them rebuild after a flood. They want to live at the edge of the ocean, but they expect government disaster assistance after a hurricane.

Not only does this mentality result in building patterns that cause tremendous environmental harm, but it invariably leads to an expansion of government. Elected officials, who often go to great

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lengths to woo voters, are quick to respond to virtually any so-called “natural disaster” with a promise of government assistance. That assistance, which is funded by taxpayers, only reinforces dependence on the government and further erodes the ethic of personal responsibility.

While a compassionate government response is justified when truly unforeseen events happen that wreak havoc on people’s lives, we must place more emphasis on personal responsibility, especially when it comes to decisions about where and how to build homes. The priority should be to minimize risk and prevent the loss of property by encouraging sound decision-making that takes nature into account.

### **NATURE’S LESSONS**

British statesman Edmund Burke, considered the founder of modern conservatism wrote, “Never, no, never, did Nature say one thing, and Wisdom say another.” Mankind’s capacity to study and gain a better understanding of nature is of little use if he chooses to ignore what has been learned.

A flood plain is called a flood plain for one simple reason. It floods. Therefore, it stands to reason that anyone who builds a house in a flood plain can expect to experience one or more floods.

People who choose to build in flood-prone areas are knowingly taking a risk. Some, however, are lulled into a false sense of security by phrases such as “hundred year flood plain.” Today, many flood plains that

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have historically flooded once every hundred years now flood much more frequently.

Looking back at hundred-year trends has little bearing on the risk today. Over the past century, a significant loss of wetlands, which hold water, and the ever-increasing prevalence of impervious surfaces such as roads, parking lots and buildings, have dramatically altered the frequency and severity of floods.

Those building oceanfront homes or rental properties are also knowingly taking a risk. Hurricanes are quite common along a good portion of the East Coast and the Gulf of Mexico. Nor’easters are also common along the East Coast. These risks are compounded by a variety of factors associated with global warming, including sea level rise and the associated increase in the severity of storm surges.

The same is true for those in fire-prone Western states who build homes adjacent to wildlands. One would have to be living on another planet to not be aware of the many large wildfires that have hit California, Nevada, Colorado, Montana, and other Western states over the past decade.

In building decisions, local knowledge and common sense must trump other desires. Individuals and businesses have a responsibility to weigh the risks and realities associated with a location before purchasing a property or deciding to build. A decision to build or buy in a higher-risk area must also be a decision to accept the risk—and the costs associated with that risk.

### **ATTITUDE ADJUSTMENT**

Richard Weaver, an influential American conservative scholar and property-rights advocate, wrote: “Man is not the lord of creation, with an omnipotent will, but a part of creation, with limitations, who ought to observe a decent humility in the face of the inscrutable.”

Humility and respect for nature are essential values when it comes to minimizing risk—not to mention minimizing our impacts on the environment. But these values are also essential to fiscal discipline and keeping tax rates low.

When a developer or an individual decides to destroy a wetland to develop an area, or to build an expensive vacation home on the beach or on a forested mountainside, he or she may reap financial or lifestyle benefits. Such imprudent development decisions, however, are almost certain to exact a heavy cost on the rest of us.

As Weaver pointed out in his book *Ideas Have Consequences*, “Triumphs against the natural order of living exact unforeseen payments.”

All kinds of factors are taken into account before someone chooses to build or buy a house: quality of local schools, commuting distance, proximity to a busy highway or a noisy airport. It is reasonable to also expect people to take flood, fire, storm and other risks into account and bear the costs associated with their decisions.

If you do not want to pay higher insurance costs associated with living on the oceanfront or in a flood plain, then you should choose to live somewhere else. If you must have a lush, verdant lawn, then reconsider your plan of retiring to the desert. If you fear wild animals, then don't build your dream home at the edge of the wilderness.

### **GOVERNMENT'S PROPER ROLE**

Government programs that subsidize insurance—or help people rebuild in the same location following a catastrophic loss—are popular and make people feel better. Unfortunately, they also encourage irresponsible development, which in turn, guarantees ever-escalating losses and leaves taxpayers stuck with an increasing disaster tab.

Government programs offered in response to property loss from storms, floods and fire must primarily be focused on preventing future losses. Taxpayer dollars should be used to discourage risky behavior with sound programs that will actually reduce storm damage.

That means providing financial incentives for people to strengthen existing homes or to relocate after storm loss, as well as disincentives for developing or rebuilding in risky areas.

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It means raising standards for residential and commercial structures to better withstand natural disasters, and zoning to ensure adequate natural buffers from storms, floods and fires.

It also means protecting more wetlands and other natural areas that provide essential risk management services and reduce the need for costly man-made infrastructure.

With the proper incentives, a little common sense, and a better attitude toward nature, we can reduce storm damage, encourage responsible development, and save taxpayers a ton of cash.

We would all be well-served to take Richard Weaver's humble and conservative view of the natural world to heart:

“Nature is not something to be fought, conquered and changed according to any human whims. To some extent, of course, it has to be used. But what man should seek in regard to nature is not a complete domination but a *modus vivendi*—that is, a manner of living together, a coming to terms with something that was here before our time and will be here after it.”



*David Jenkins is the Government Affairs Director of Republicans for Environmental Protection.*

# Flood Control Subsidies Soak the Treasury

by Eli Lehrer

Since the first comprehensive flood control legislation went into effect the early 20th century, America's federal government has fought a never-ending battle to control floods. For forty years—fifty-one if one counts a stillborn Eisenhower administration effort—the federal government has run a program intended to provide Americans with insurance against flood.

Today, America's most important flood control program—the none-too-creatively named *National Flood Insurance Program* (NFIP)—faces serious troubles. In its current state, it drains the Treasury, damages the environment, and encourages unwise development. At minimum, it needs a restructuring that puts environmental and fiscal responsibility ahead of the questionable short-term desire of some for lower insurance rates in flood-prone areas.

Some background first: As it has existed since the 1970s, NFIP is a government-administered, privately run program that relies on federal-state partnerships. Before individuals can buy flood insurance, the places they live must opt in to NFIP by adopting zoning codes that, at least in theory, discourage construction in flood-prone areas. In communities that participate—nearly all have since the early 1980s—individuals can buy flood insurance from almost any company that sells homeowners' insurance.

The setting of rates that insurers charge and the actual liability for claims, however, lies with the government. When a homeowner makes a claim, NFIP, not the insurer, pays out nearly all of the claim and processes it through the insurer. In theory, NFIP charges

“actuarially adequate” rates that at least allow it to break even on properties built or overhauled after the program began. (Older properties are grandfathered in.)

But the program has enormous negative effects—particularly on the environment. Quite simply, it's underpriced and implicitly subsidized. Thus, it encourages building in places—many of them areas of natural beauty or importance to wildlife—that private builders and insurers would never develop absent flood insurance.

The National Wildlife Federation, for example, has found that NFIP rebuilds thousands of properties time and again, despite overwhelming evidence that floods prove a serious threat to them. The program's technical definitions of “adequacy,” furthermore, almost always prove less rigorous than those the private sector (and some state governments) use. As a result, the rates the program charges are less than those that the risk of flooding really requires. In other words, through the program the federal government indirectly subsidizes lots of development in areas near water.

**The maps that the program uses to determine rates have a variety of serious flaws. As a result, many properties built in 'safe' places and charged reasonably low rates aren't actually safe at all.**

## **DRAINING THE TREASURY**

Given that it sells insurance for less than any private company would, the program is a fiscal disaster. Although it theoretically, “borrows” money from the Treasury rather than actually raiding it, its fiscal state doesn't

really make it possible for NFIP to pay back its debts. Right now, it owes the Treasury almost \$18 billion and has no practical way to pay it back. (Earlier this year, the Senate voted to forgive the debt.)

Finally, although a program to modernize them has gotten underway, the maps that the program uses to determine rates have a variety of serious flaws. As a result, many properties built in “safe” places and charged reasonably low rates aren’t actually safe at all.

Given the enormous problems the program faces, it’s worth treating the proposals for expanding it with enormous skepticism. The House of Representatives has actually voted to begin offering wind coverage—mostly against hurricane winds—through NFIP.

Hundreds of private companies already offer wind insurance and doing this would likely encourage even more unwise construction while, again, doing almost nothing to protect the environment. Wisely, Republicans for Environmental Protection has joined with

dozens of other free market, environmental, and taxpayer groups to oppose it.

As messy and as environmentally destructive as the program has become, simply getting the government out of the way and letting the free market run flood insurance (the ideal long-term solution) isn’t a viable option in the short term.

A few private companies do write some flood coverage for the very rich—whose properties far exceed the flood program’s maximum—but even homes that sell for a million dollars are often generally insured through the program. Quite simply, insurance companies never figured out how to make money writing flood insurance. In fact, although insurance companies are loathe to admit it in public, homeowners’ insurance in general has never really produced profits. Over any given twenty-year period, insurers will pay out in claims everything they take in premiums. (They make money off homeowners’ insurance by investing premiums dollars in-between claims and selling other products to those who buy it.)

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*A Louisiana home in the wake of Hurricane Katrina. Photo courtesy of NOAA (National Oceanic and Atmospheric Administration)*



*A swollen river devastates a residential community. Photo courtesy of FEMA (Federal Emergency Management Agency)*

Writing flood insurance requires complex mapping that even the federal government hasn't done properly. State bureaucrats around the country also administer regulatory regimes and even sell insurance themselves in an effort to keep rates down even in places where high insurance costs rates should be a sign not to build. Florida's state government, in fact, runs the largest homeowners' insurance program in the state.

### **INCENTIVIZING PROGRESS**

Transforming flood insurance from a program that encourages unwise development into one that's at least neutral for the environment—and consistent with conservative principles—requires at least five steps: a firm commitment that the program won't rebuild properties more than twice, a dedication to preserving nature's own flood barriers, a revamp of standards for building codes, and measures to encourage states to take risk into account in setting insurance rates.

First, the most obvious flaw in the program is its willingness to rebuild properties time and again. Both House and Senate have passed "two strikes and you're on your own" laws that drop properties from the program after

they've been rebuilt twice. This is simply common sense and, in the long term, can save a great deal of money, protect the environment, and make communities safer.

In addition, the behind-schedule, underfunded map modernization process needs to get full funding so the rates can become more accurate. In the medium term, Congress needs to look for ways that can encourage private companies to get into the flood-mapping business. No matter how good the contractors producing the maps are, any flood map contains a series of educated guesses. It's better to have more than one set of baseline data and let trial and error figure out what works and what doesn't.

Next, the nation's overall plans for flood control should consider floods an inevitable, natural occurrence rather than an enemy. Natural wetlands reduce the size of post-hurricane storm surges and soak up flood waters before they hit cities and towns. Efforts to preserve them, particularly by limiting all government subsidies for efforts that pave and drain them, deserve top priority.

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**—Eli Lehrer, Senior Fellow  
Competitive Enterprise Institute**

The nation's coastal infrastructure also needs a full-scale review: the marginal economic benefits of certain shipping channels and poorly placed breakwaters are far outweighed by the enormous economic cost they can impose when they serve to increase flooding. Redesigning or eliminating them could make the nation much safer.

Finally, the federal government has a role to play in moving states towards environmentally conscious risk-based rates for insurance. If insurers and NFIP were allowed to take risk into account in every decision, the resulting regime would automatically protect the environment. The riskiest areas, on balance, are those closest to water and those most important to wildlife. The most promising option on the table right now involves a federal regime that would give insurers the choice of federal regulation rather than state regulation and, in so doing, provide an alternative to burdensome state regulatory regimes.

As it stands, NFIP wastes money and encourages unwise development. It's impossible to eliminate in the short term, but conservative principles suggest a simple solution: start moving government out of the way. ❖❖❖

**Eli Lehrer** is a senior fellow at the Competitive Enterprise Institute, where he directs CEI's studies of insurance and credit markets. Prior to joining CEI, Lehrer worked as speechwriter to United States Senate Majority Leader Bill Frist (R-TN).

Lehrer previously worked as a manager in the Unisys Corporation's Homeland Security Practice, Senior Editor of *The American Enterprise* magazine, and as a fellow for the Heritage Foundation. He has spoken at Yale and George Washington Universities.

He holds a B.A. from Cornell University and a M.A. from The Johns Hopkins University, where his Master's thesis focused on the Federal Emergency Management Agency and Flood Insurance.

His work has appeared in the *New York Times*, *Washington Post*, *USA Today*, *Washington Times*, *Weekly Standard*, *National Review*, *The Public Interest*, *Salon.com*, and dozens of other publications. Lehrer lives in Oak Hill, Virginia with his wife, Kari, and son, Andrew.

# WESTERN GROWTH: BURNING A HOLE IN TAXPAYERS' POCKETS

by Jim DiPeso

Up a canyon, on a south-facing slope, there's an acre of land like many others in the Intermountain West. Overhead, tall conifers scratch at the cobalt blue sky as they bend before the hot afternoon breeze. Looking out, the view is worth a million bucks. Looking down, a layer of dry litter sits on the quiet forest floor—needles, twigs, larger branches, and piles of cones. It's late August, and not a drop of rain has fallen since school let out.

A visitor looking for a place to build a better way of life looks at the acre of land and sees a dream home in paradise.

A firefighter spending his summer eating smoke looks at the acre of land and sees a dream home that he'll have to risk his life trying to save when the wall of flames comes. And it will come, if not this year, then in some future year, as it has since time immemorial.

Trouble is, they're both right. Knowledge workers free to live anywhere and retirees escaping big city tension are building homes in the unspoiled woods of Arizona, Colorado, Montana, and other fast-growing Western states.

About 44 million homes are in the "wildland urban interface," where private or other non-federal property abuts or intermingles with undeveloped federal lands, according to a 2007 report issued by the Government Accountability Office.

## UNREALISTIC EXPECTATIONS

The migrants bring new economic and social vitality to rural communities. But they may also bring unrealistic expectations of urban levels of fire protection in a remote landscape that is naturally prone to catching fire.

Development in the woods imposes property protection burdens on wildland firefighters and higher costs on taxpayers. A 2006 report published by the U.S. Department of Agriculture (USDA) estimates that 50 to 95 percent of Forest Service costs incurred to fight large wildland fires can be attributed to protecting private homes.

*"Homeowner reliance on the federal government to provide wildfire suppression services places an enormous financial burden on the (Forest Service)," the report said. "It also removes incentives for landowners moving into the [wildland urban interface] to take responsibility for their own protection and ensure their homes are constructed in ways that reduce wildfire risks."*

Wildland firefighting to protect private homes is far costlier than fighting fires in undeveloped back country. Two fires in the Bitterroot National Forest in 2000 illustrate the difference, the report noted. The Forest Service spent \$7.2 million to fight a 64,000-acre fire in order to protect structures in the wildland-urban interface. A similarly sized fire in a designated wilderness cost only \$710,000 to suppress.

Moreover, Western forests are more vulnerable to fire than ever—a convergence of poor forest management in past decades and hotter, drier conditions that are a projected outcome of climate change.

*"Recent years have seen increasing fire costs as the result of accumulating drought effects in the West coupled with a series of years that are the warmest on record. Many reputable climatologists and fire behavior specialists predict those trends to continue. These drought and temperature conditions have compounded insect and disease damage in areas affected and the severity of damage is resulting in rapid accumulation in fuels. As a result, and particularly in the West, the fire season is beginning earlier, lasting longer, with increasing intensity,"* said five former Forest Service chiefs, who had served under every administration from Jimmy Carter to George W. Bush, in a 2007 public statement about firefighting costs.





*A 2000 fire destroyed hundred of homes in the wildland-urban interface near Los Alamos, New Mexico.  
Photo by Andrea Booher / FEMA News Photo*

### **FIRE CONSUMES BUDGET**

Firefighting has become the dominant line item in the U.S. Forest Service's budget. With longer and more-intense fire seasons driving up the costs of fire suppression, the Forest Service has been forced to raid funds budgeted for other forest management activities, including forest restoration, wildlife habitat management, and maintaining trails and campgrounds.

In 1991, 13 percent of the Forest Service's budget was spent on wildland fire management. President Bush's fiscal year 2009 budget request allocates 43 percent of the \$4.5 billion Forest Service budget to fire. Between 2000 and 2005, fire costs for all land management agencies rose an average of 11 percent per year, according to a study by Headwaters Economics, a non-profit research organization in Montana.

"It's insanity," Congressman John Peterson, a Pennsylvania Republican, commented at a 2007 subcommittee hearing on the Forest Service's exploding fire costs.

Wildfires are burning more acreage. In each year from 2004 to 2007, wildland fires consumed more than 8 million acres, the National Interagency Fire Center estimated. With data going back to 1960, those years are the four biggest on record. While the Forest Service and other federal land management agencies are allowing more fires to burn for ecological and cost management reasons, such "wildland fire use" accounts for a small share of total burnt acreage.

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**More people are making the choice to build homes in fire-prone, rugged terrain where fighting fire is unusually costly, difficult and dangerous.**

Wildland fire costs could increase significantly because there is still plenty of land that could be developed in the wildland-urban interface. Headwaters Economics estimated that 14 percent of the wildland-urban interface has been developed. If half the interface were developed for housing, fire costs could balloon to \$2.3 billion to \$4.3 billion per year. At the upper end of the range, the costs would almost equal the Forest Service's entire annual budget.

### **TAKING RESPONSIBILITY**

Under America's federal system, land use planning and regulation is left to local and state governments. Development codes and building standards differ widely among Western states, according to a Headwaters Economics article submitted to the *Journal of Forestry*. They range from laws encouraging counties to incorporate wildfire reduction into land-use plans to requiring property owners to clear vegetation around their homes.

## **The Forest Service has yielded to political pressures to give highest priority to protecting private homes, rather than public resources endangered by wildfires.**

Since much of the residential development in the wildland-urban interface is low-density, forcing fire crews to defend widely dispersed structures, the article recommends managing the wildland-urban interface as flood plains are managed: with ordinances and development codes that set density and building construction standards in high-risk areas.

The USDA report recommends that local and state governments shoulder more of the fire costs burden, but that may be easier said than done. As the authors note, state officials argue that Uncle Sam should bear the full burden of fire suppression costs on federal

land, even when those costs are incurred to protect private homes outside national forests or other federal lands. The report added that the Forest Service has yielded to political pressures to give highest priority to protecting private homes, rather than public resources endangered by wildfires.

The five former Forest Service chiefs have called on Congress to establish an emergency firefighting fund, to ensure that the Forest Service is not forced to raid its budgets for other land management activities.

But such a fund wouldn't get at one of the root causes of increased costs: more people are making the choice to build homes in fire-prone, rugged terrain where fighting fire is unusually costly, difficult, and dangerous.

Building homes and managing property using "Firewise" construction and landscaping can help protect homes in fire country. Thinning unhealthy forests and lighting prescribed burns can reduce the intensity of fires in areas characterized by frequently recurring fire.

But as home construction continues in the wildland-urban interface, and as climate change makes already fire-prone forests even more so, there is likely to be upward pressure on fire-management costs, a burden on taxpayers and a danger to fire crews called on to protect homes on steep, narrow roads snaking through remote canyons.

True conservatism calls on individuals to take responsibility for their choices. It also calls on governments to avoid creating a moral hazard through lax policies that enable or even reward risky choices that burden others with the costs of dealing with the consequences of such choices.



*Jim DiPeso is the Policy Director for Republicans for Environmental Protection.*

## Leader Profile:

### **Congressman Mark Kirk**

Wherever you go in Illinois' 10th District, you won't be far from an important body of water, whether it's Butler Lake, known by few people outside the district, or the spectacular blue expanse of world-famous Lake Michigan.

Congressman Mark Kirk has given special attention to water stewardship during his seven years in the House of Representatives. His work protecting lakes and rivers is part of a broad environmental legacy that includes fighting for increased use of cleaner energy resources and protection of America's natural treasures, both inside and outside of Illinois.

Born in the university town of Champaign in 1959, Kirk attended the Universidad Nacional Autonoma de Mexico before earning a bachelor's degree from Cornell University. Later, he obtained a master's degree from the London School of Economics and a law degree from Georgetown University.

Kirk, an officer in the U.S. Naval Reserve, is one of the few members of Congress who has seen active military duty during his time in office. His career has included four tours of duty at sea and three in Panama, missions over Iraq, and combat in Kosovo, for which the Navy named him Intelligence Officer of the Year in 1999. He was the only Member of Congress to serve stateside during Operation Iraqi Freedom, and he continues to serve one weekend a month of duty at the Pentagon.

Kirk first went to Washington to work on the staff of Illinois Republican Congressman John Edward Porter, who represented the 10th District for 11 terms. He rose to be Porter's chief of staff before moving on to the World Bank, the State Department, and the Baker and McKenzie law firm. He also served as counsel for the House International Relations Committee (now called the Foreign Affairs Committee).

In his first run for Congress in 2000, Kirk won an 11-person primary race to succeed the retiring Porter. He holds the distinction of being the first candidate ever endorsed by Republicans for Environmental Protection... building a special relationship that remains strong to this day.



Today, Kirk is a member of the House Appropriations Committee. He serves on two appropriations subcommittees, Financial Services, and State, Foreign Operations, and Related Programs.

Kirk is a leader of the Tuesday Group, which brings together mainstream Republicans to advocate for a "suburban agenda" that includes a strong environmental platform. For Kirk, stewardship is a high priority. He scored a perfect 100 in Republicans for Environmental Protection's *2007 Congressional Scorecard*. His average score since its first publication in 2005 is 83.

Among Kirk's high priorities is protecting the Great Lakes from threats such as invasive species, loss of wetlands, and pollution from mercury and other toxins. He is an original co-sponsor of the Great Lakes Collaboration Implementation Act, which would boost funding for clean-up and authorize grants for projects to reduce mercury pollution. He favors bipartisan legislation to reduce power-plant mercury emissions, which can enter water bodies and transform biochemically into a form, methylmercury, that can cause permanent neurological damage to children.

Another of his legislative initiatives has been preventing contamination of the Great Lakes by ballast water from ships, which can introduce foreign species that wreak havoc with the lakes' ecosystem. Earlier this year, he won House passage of an appropriations amendment requiring that "lakers"—vessels operating exclusively in the Great Lakes—must have ballast water treatment systems if requested by the Secretary of Agriculture.

Kirk pays attention to smaller water bodies in his district too. He fought successfully to secure funds to clean up Waukegan Harbor, the Des Plaines River, and Butler Lake.

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## Leader Profile: Rep. Mark Kirk

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Clean energy is another of Kirk's priorities. He supports high motor vehicle fuel economy standards, and research and development funding for renewable energy and biofuels. This year, he, his Illinois colleague Judy Biggert, and Congressman Christopher Shays of Connecticut introduced the *Apollo Energy Independence Act*, to provide permanent tax incentives for conservation, renewables, and efficient motor vehicles.

Kirk has been a consistent champion of protecting America's natural treasures, whether it be the breathtaking lakeshore bluffs at Lake County's Fort Sheridan to opposing oil drilling in the Arctic National Wildlife Refuge. Kirk also supports legislation to permanently protect roadless areas in national forests.

When it comes to putting the truly conservative ethic of stewardship into action, few members of Congress can match the record of Mark Kirk.



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