Environmental Protection on Private and Public Lands

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Private property and secure property rights are essential conditions of freedom and prosperity. Contrary to propaganda from environmental advocacy groups, private landowners' environmental stewardship has proved to be far superior to that of public land managers. However, federal regulations increasingly undermine private conservation efforts.

The Endangered Species Act (ESA) and wetlands regulations provide no incentives for regulators to contain costs, because the costs are borne by landowners. The solution is to enact meaningful compensation for regulatory takings that exceed 10 percent of a property's current-use value. The Supreme Court has acknowledged that regulatory takings can fall under the Constitution's Fifth Amendment provision: "nor shall private property be taken for public use without just compensation." Unfortunately, the Court has also made it extremely difficult to claim compensation, unless the regulation takes all or nearly all the value of the property. Takings compensation legislation will reduce violations of property rights. Making regulators pay the costs of regulating should provide the push necessary to enact significant ESA and wetlands reforms.

Management of federal lands, which compose 27 percent of the surface area of the United States, continues to move away from active multiple-use management of resources toward non-management based on the destructive and false notion that anything humans do is bad for the natural world. For example, timber harvesting in

our National Forests has been replaced by management by catastrophic fires. The environmental degradation of federal lands goes hand in hand with declining resource production and impoverishment of rural people in those areas of the West where the majority of lands are federally owned. It is time to stop and reverse the locking up of federal land, restore multiple-use management, and increase resource production.

It is also time to stop the federal government from buying more private land and instead start privatizing federal land or transfer it to the states. Federal lands are on average in worse environmental condition than private lands and produce much less economic activity. Yet the four federal land agencies continue to buy private land under the Land and Water Conservation Fund, thereby taking it out of economic production and off the property tax rolls. Congress should prohibit further federal land acquisition and institute programs to transfer federal lands to states requesting it and to privatize federal lands in states that do not.

Finally, planning for the speculative impacts of potential climate change is now permeating federal land management policy and planning. Climate change is bad enough in itself, but planning for it has given federal land managers an excuse for planning "beyond boundaries"—that is, to include private property in their plans. In addition, calculating the speculative future "social cost of carbon"—an arbitrary figure based on the preferences of federal bureaucrats—is now being used in federal environmental permitting decisions. Congress should prohibit the use of that artificial metric in federal land management and environmental permitting.