

**Brief Summary – Comments on Growth Policy Update (received between Jan. 11<sup>th</sup> and Feb. 29<sup>th</sup>, 2012)**

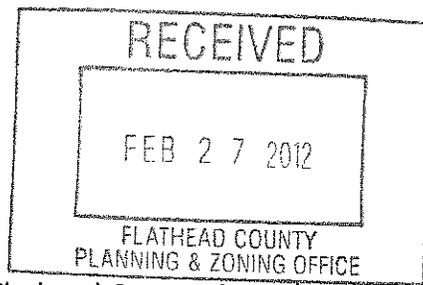
Prepared for: Planning Board Workshop - Wednesday, February 29<sup>th</sup>, 2012

Chapter	Name	Comment
Preface	Jim Heim, Planning Board	Add language, 1 <sup>st</sup> sentence: <i>"if requested by the governing body"</i>
	Russ Crowder, ADM	Make clear that private property rights are not communal but individual; acknowledge that the Montana Supreme Court determined Growth Policies and their amendments to be regulatory.
	Joan Slaybaugh, 230 Antelope Trail	Key points: <ul style="list-style-type: none"> <li>- Refers to Property Rights Council established in Bonner County, Idaho</li> <li>- Input from Bonner Co. Attorney – translation of the expression "property right" to "control right"</li> <li>- Zoning (in effect) places private rights coercively under public control.</li> <li>- Would like the Growth Policy to address this issue of "control rights"</li> <li>- Feels private property ownership is under attack across the nation – requests the Board protect the Flathead from national trend.</li> </ul>
	Russ Miller, 510 Solberg Drive	Key points: <ul style="list-style-type: none"> <li>- Takes issue with philosophy of property rights expressed in growth policy; impact of what is written and subsequent zoning efforts that must consider growth policy document</li> <li>- References historic context of property rights; provides quote from economist von Mises; impacts on society resulting from loss of property rights</li> <li>- Feels "only true and proven need for protection from harm to individuals should be the first line of restriction on property rights."</li> <li>- Citation of 1930s Supreme Court – appears to reference the concept of takings (context unclear)</li> <li>- Feels the Growth Policy should provide direction, efficient growth, economy, etc. while at the same time protecting rights or risk losing the benefits of liberty.</li> </ul>
	Debbio Biolo, 1985 Hodgson Road	Key points (3 written comments received to date): <ul style="list-style-type: none"> <li>- Would like to see statement of intent balancing individual property rights with 'collective' rights</li> <li>- Disagrees with concept that there are no absolute</li> </ul>

		<p>property rights.</p> <ul style="list-style-type: none"> <li>- Submitted excerpts from American Policy Center on sustainable development and environmentalism, how these concepts infringe on individual property rights through community or collectivist ideals.</li> <li>- Asks the board to make sure language is not being 'fed' to them from elsewhere... wonders if text came from draft or template out of Missoula or Great Falls.</li> <li>- Submitted text of article (circa 2005) on property rights in America entitle "Taking Liberty"</li> <li>- Feels text in Growth Policy fully follows the Sustainable Development Agenda (Agenda 21, United Nations); also compares text to Marxist principals outlined in his 1847 "Manifesto"</li> </ul>
	Mayre Flowers, Citizens for a Better Flathead	After review of language regarding property rights in the preface of the Growth Policy document, organization feels the Planning Board has drafted a basically fair and balanced statement on property rights for inclusion.
<b>Ch. 1</b>		No comments submitted
<b>Ch. 2</b>	Steve Lorch, DNRC	<ul style="list-style-type: none"> <li>- Recommends language to identify differences between DNRC goals and MT FWP goals (refer to draft language proposed in Ch. 2, page 5);</li> <li>- Ch. 2, page 14 – change 'system' to 'division'</li> </ul>
<b>Ch. 3</b>		No comments submitted
<b>Ch. 4</b>	Steve Lorch, DNRC	<ul style="list-style-type: none"> <li>- Ch. 4, page 54 – remove 13,000 acres of WF Trust Lands from table; common misconception. Recommends specific language to address this following table.</li> </ul>
<b>Ch. 5</b>	Joe Unterreiner, Kalispell Chamber of Commerce	<ul style="list-style-type: none"> <li>- Proposed changes to Ch. 5, Part 2, page 61 to reflect government employment downturn</li> <li>- More current data available that may show change in trends discussed, pursuant to Figure 5.6 and text on page 66.</li> <li>- Ch. 5, Part 4 – county fairgrounds, GPI and rail service in Flathead County should be addressed</li> </ul>

		further.
	Mayre Flowers, Citizens for a Better Flathead	- Suggests adding 'Public Employers' in the cities of Columbia Falls and Whitefish
<b>Ch. 6</b>		No comments submitted
<b>Ch. 7</b>	Mayre Flowers, Citizens for a Better Flathead	<ul style="list-style-type: none"> <li>- Do not support changes to Policy 28.9 regarding shallow groundwater; references comment received from the Flathead Biological Station (submitted 2/15/2012) addressing need for lower density development in these areas.</li> <li>- Recommend sentence be added back to paragraph of septic system failure, due to it being a referenced source.</li> </ul>
	Chuck Curry	- Provided updates to Ch. 7 on law enforcement data for the current FY
<b>Ch. 8</b>	Steve Lorch, DNRC	Ch. 8, page 145 – once again, replace 'system' with 'division'
	Robin Steinkraus, Flathead Lakers	Specifically supports Goals 35 through 40 and their subsequent policies in Chapter 8 of the January 5, 2012 Draft Growth Policy – as written.
<b>Ch. 9</b>		No comments submitted
<b>Ch. 10</b>		No comments submitted
<b>Ch. 11</b>	Mayre Flowers, Citizens for a Better Flathead	Suggest removing Policy 44.5 as it is unnecessary given Policy 44.4
	Eric Mulcahy, Sands Surveying	Need to include Cooper Farms Neighborhood Plan in Table 11.1, as it was approved in 2008.
<b>Ch. 12</b>	Staff suggestions	Revert language regarding Whitefish Interlocal Agreement Area back to what was reviewed and approved in 2008.

Russ Miller  
510 Solberg Drive  
Kalispell, MT 59901



2/25/12

Subject: Property rights per the Flathead County Growth Policy

The growth policy indeed makes an effort to show some preference toward the concept of property rights as defined in the history and intent of the common law that formed the basic foundation of property rights in the United States. The problem with property rights as stated in the growth policy is that property rights are stated as being important and then they are surrounded by stipulating arguments which imply that property rights are either restricted by state law, local ordinances, or the expectations of the community as a whole should be satisfied when possible. This puts the basic philosophy of property rights hostage to a long list of phrases, which are usually begin with the words "except as provided by . . ." . It should also be noted that the growth policy does not overtly mention that the zoning regulations and other local land use ordinances must follow the intent of property rights as implied in the growth policy. Since the growth policy "has no regulatory authority", it appears very subjective as to whether zoning regulations are to follow the intent of the growth policy or the individual desires of those in charge of creating zoning policy, possibly with true regard for provisions in the growth policy. The growth policy has the dubious characteristic of being contradictory to and easily overridden by the whims of the few, while at the same time trying to satisfy and placate the desires of the many.

When the circumstances mentioned above are combined with the philosophy of property rights, property rights become arbitrary, confusing, sometimes overregulated, and ultimately frustrating for the property owner as well as those on the planning board.

The growth policy states that ". . . a delicate balance must be achieved to comply with the requirements of state law and also respect the custom and culture of freedom and private property rights in Flathead County."

So, that being said,

Property rights should always be viewed in the context of history, since history has repeatedly shown that the loss of property rights for the People has always resulted in general loss of liberties, economies, and, ultimately, in the downfall of each civilization or country that has severely diluted or done away with property rights. This is adequately stated by the renowned economist, Dr. Ludwig von Mises.

If history could prove and teach us anything, it would be the private ownership of the means of production as a necessary requisite of civilization and material well-being. All civilizations have up to now been based on private property. Only nations committed to the principle of private property have risen above penury and produced science, art, and literature. There is no experience to show that any other social system

could provide mankind with any of the achievements of civilization. (*Socialism* [New Haven, Conn.: Yale University Press, 1951], p. 583.)

Property rights should be stated with the intent that they are inalienable rights, guaranteeing the right to acquire, use, and transfer property subject to as few laws and regulations as possible so long as one does not impair others in the execution of those rights.

It is obvious that there are many laws in place to protect the general welfare as a whole, such as clean water and clean air acts. It should also be obvious that a country runs the risk of losing itself if it does not carefully weigh property rights against the needs and wants of society. Only true and proven needs for protection from harm to individuals should be the first line of restriction on property rights.

Prior to the distortions of the meaning of the “general welfare” clause in the 1930’s, the U.S. Supreme Court had declared:

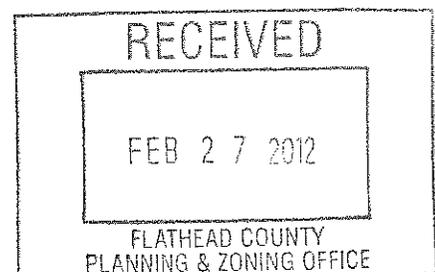
No man would become a member of a community in which he could not enjoy the fruits of his honest labor and industry. The preservation of property, then, is a primary object of the social compact . . . . The legislature, therefore, had no authority to make an act divesting one citizen of his freehold, and vesting it in another, without a just compensation. It is inconsistent with the principles of reason, justice, and moral rectitude; it is incompatible with the comfort, peace, and happiness of mankind; it is contrary to the principles of social alliance in every free government; and lastly, IT IS CONTRARY TO THE LETTER AND SPIRIT OF THE CONSTITUTION. (2 Dall 304, 310 [PA 1795]; emphasis added.)

The case which spawned this ruling had to do with an attempt to expropriate property in order to transfer it to other citizens. But the concept is analogous to what happens when property rights are eroded or taken away by either individuals or government entities.

Without a firm resolution that property rights in the Flathead County Growth Policy should be protected and subject only to statutes that are clearly needed and just, then there is no boundary that will not be torn down or ignored by those who would act ignorantly and selfishly, or those who are intent on stripping liberty from the People of America. The U.S. Constitution was intended to create a republic, ruled by law which would guarantee equal protection to all, but not equal attainment of all things.; only the protected right to the opportunity to prosper is promised. Those who own property have always been on the leading edge of creating both economies and innovations, driven by the reality of being able to enjoy the fruits of their labor. Anything that does not strive to protect this American dream, which was made reality by the Constitution, should be secondary to property rights. Laws and regulations which are necessary

to protect others from harm should be the only impediments to an absolute upholding of property rights as intended in the Constitution. The U.S. Constitution is intended to be the supreme law of the United States, and all laws which are not in accordance with the provisions and intent of the Constitution are null and void. The separate powers of governments, individually or in the whole, are not intended to be supreme in their dictates unless they adhere strictly to the Constitution. It logically follows that the states uniting as one country under this Constitution should follow the same philosophy and intents that were laid out by the founders in their writing of the Constitution. Without property rights which are as unencumbered as possible, there will eventually be no rights save those that are handed down by dictate and changed at the will of a few who are in power.

The Planning Board does not have an easy task. It must try to satisfy the wants of as many of the People as possible. But it is the rights and liberties of the People that are most important, and if the rights of the People are not protected and nurtured, then those rights will surely wither and the wants of the people will wither also. The key phrase is "inalienable rights", not "inalienable wants". The Montana Constitution has its own bill of rights, but most of those rights end with the phrase "except as provided by law". This gives temptation to those who would do away with all rights not specifically granted by government at any given time. The growth plan should provide direction, efficient growth, economy, and so on. At the same time it must protect rights or risk losing all of the benefits that liberty has yielded in the United States.



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2/29/2012

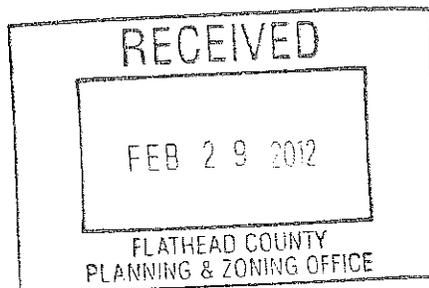
To: Flathead County Planning Board  
Re: Flathead County Five-Year Growth Policy Update

Citizens for a Better Flathead appreciates this opportunity to once again comment on the Flathead County Growth Policy update. As a follow up to the public hearing that you held on the Growth Policy workshop that you are hosting as a follow up to that workshop, we have once again reviewed the Part 5 Property Rights in Flathead County as well as comments you had received on this section as of 2/27/2012.

We believe that the planning board has drafted a basically fair and balanced statement on property rights for inclusion in the growth policy. We recognize that this represents perhaps a compromise in what others or we may have drafted, but we are comfortable that it represents the complexity of this issue in a reasonable manner.

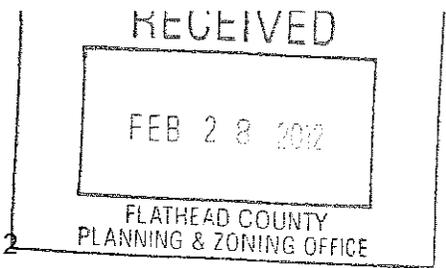
Sincerely,

Mayre Flowers



Joan Slaybaugh  
230 Antelope Trail  
Whitefish, MT. 59937

2-24-12



Flathead County Planning Board:

I would like this input about property rights submitted for the workshop Feb. 29.

In researching property rights to find appropriate material to submit I came across an article about a county in Idaho that has established a Property Rights Council to provide a strong voice for protection and defense of the property owners. In recognizing the threat centralized control of development poses to private property, this council set out to develop a strategy to protect constituents' property rights and the right to control their own property.

Scott Bauer, county attorney for Bonner County, Idaho explained their approach in defining property rights this way: "Practically speaking for every property rights council case/file we look at we translate the expression "property right" with the expression "control right". We take a property right to be the right to control some asset, resource, or physical thing. We analyze each case in terms of whether the proposal advances public control or private control."

"Property controlled by a public entity is property that is controlled by an entity that utilizes a measure of socially sanctioned coercion to control the private assets in it's possession and one that takes those assets from private individuals without their full/complete consent."

"Applying this to land use controls, new proposed zoning socializes preexisting, privately controlled real property and places it coercively into public control. Using this framework the Property Rights Council looks for the mix of public/private control over an asset or assets and promotes more private control and less public."

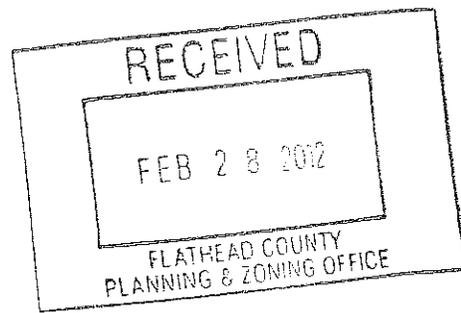
I would like to see you incorporate in our Growth Policy regarding property rights the idea of looking at how control of assets in one's property is affected when regulations are imposed that may transfer control of those assets from the property owner, or restrict and reduce the value of those assets to the property owner. I like the idea above of the "control right," taking into account whether the gov't action will cause the owner to loose control of their assets related to the property. Is there a measure of coercion involved where the property owner does not consent to having the assets transferred to public control? The property owner should be favored in having the control of his own assets over public control.

Private property ownership and control by individuals is under attack across our nation. Rights are being violated as restrictions are put on homeowners ability to control their property and assets to make simple improvements and decisions about their own lives and possessions. Property rights, meaning the control of the property by the owner is fast disappearing. Please protect the Flathead from this national trend.

Please consider the idea of "control rights" and the need to protect the private right over the public. Thank you, Joan Slaybaugh

Debbie Biolo  
1985 Hodgson Rd.  
Whitefish, MT. 59937

2-27-2012



Flathead County Planning Board:

The institution of private property has long been understood by the founders of America and consequently included in the Declaration of Independence, The Constitution, and the Bill of Rights.

The right to property is premised on an owner's determination of it's use, provided that such use does not disturb the equal rights of another. Liberty in America was established by our founders, directed by reason and respect for the dignity of individual determination.

The Declaration of Independence states " all men are endowed by their Creator with certain unalienable rights, that among these are Life, Liberty, and the Pursuit of Happiness." This directive is intended to protect the natural or unalienable rights of each individual. You are born with rights. The government in America exists to protect those rights. You and the product of your labor belong to you.

American founders recognized the critical nature of private property rights as they witnessed first hand the abuse of power that occurs when centralized government controls property. James Madison and others knew that private property is the foundation to liberty and wealth creation. John Adams pointed out that "property must be secured, or liberty cannot exist." George Washington stated "private property and freedom are inseparable."

Contrast our founders statements with those of Karl Marx who in his "Manifesto To The World" in 1847 calls for the "abolition of private property" and the " establishment of communal ownership of property in a classless, stateless society," along with "the elimination of family as a social unit." In opposition to our American premise is the view of Marx and other socialists that " rights and freedom may in no case be exercised contrary to the purpose of the state." In their view government grants rights, and restricts or withdraws rights according to it's needs. You and the product of your labor belong to the community where rights are granted and rescinded by men. Control of the individual is for the greater good of the community.

Author V.H. Heywood in the Global Biodiversity Assessment, United Nations Environment Programme, Cambridge University Press, Cambridge (1995) states that "for progress to be made in implementing Sustainable Development in the United States, unalienable rights such as the right to property must be eroded, attacked, and struck down altogether."

Frankly, what I read in your Growth Policy fully follows the Sustainable Development agenda to the word. It sounds more like Karl Marx than it does our respected American founders, or our Constitution.

Please don't be led down this path without taking stalk of what you are being fed and by whom. A litany of abuse results by accepting pre-conceived plans, which use manipulative "visioning" sessions to garner appearance of public "consensus." Did your Growth Policy come from some draft or template or kit, so that it reads just exactly like the Growth Policy in Great Falls or Missoula?

Please protect our valley and your constituents in the Flathead from such abuse and take a good hard look at what you are doing and what are the consequences of your actions.

Do your own research as I have since attending your Feb. 15 hearing. Look into Agenda 21, out of the United Nations and its implementation in the United States through ICLEI and make your own parallels, they are readily apparent. I appreciate the opportunity to have this input. Debbie Biolo

These maps can be viewed on-line -  
much more effective - [www.freedomadvocates.org](http://www.freedomadvocates.org)

# TAKING LIBERTY

*How private property in America is being abolished.*

*By Michael S. Coffman, Ph.D.*

*All maps (except for Wildlands Project map, below) created by Environmental Perspectives, Inc., produced and funded by American Land Foundation and Stewards of the Range.*

One hour before the U.S. Senate was to adopt the United Nations Treaty on Biodiversity, Sen. Kay Bailey Hutchinson (R-TX) went to the floor with a 300-plus-page draft copy of Chapter 10 of the United Nations Global Biodiversity Assessment and a 4'x6' poster.

The poster showed the lower 48 states overlaid with hundreds of red islands representing wilderness areas interconnected by thousands of red ribbons called corridors, all surrounded by yellow buffer zones. Small green patches were "human occupation zones." The agenda was so outrageous it would have been discounted, except that Sen.

Hutchinson had the proof in her hands. The date was Sept. 29, 1994, and the agenda was called the Wildlands Project.

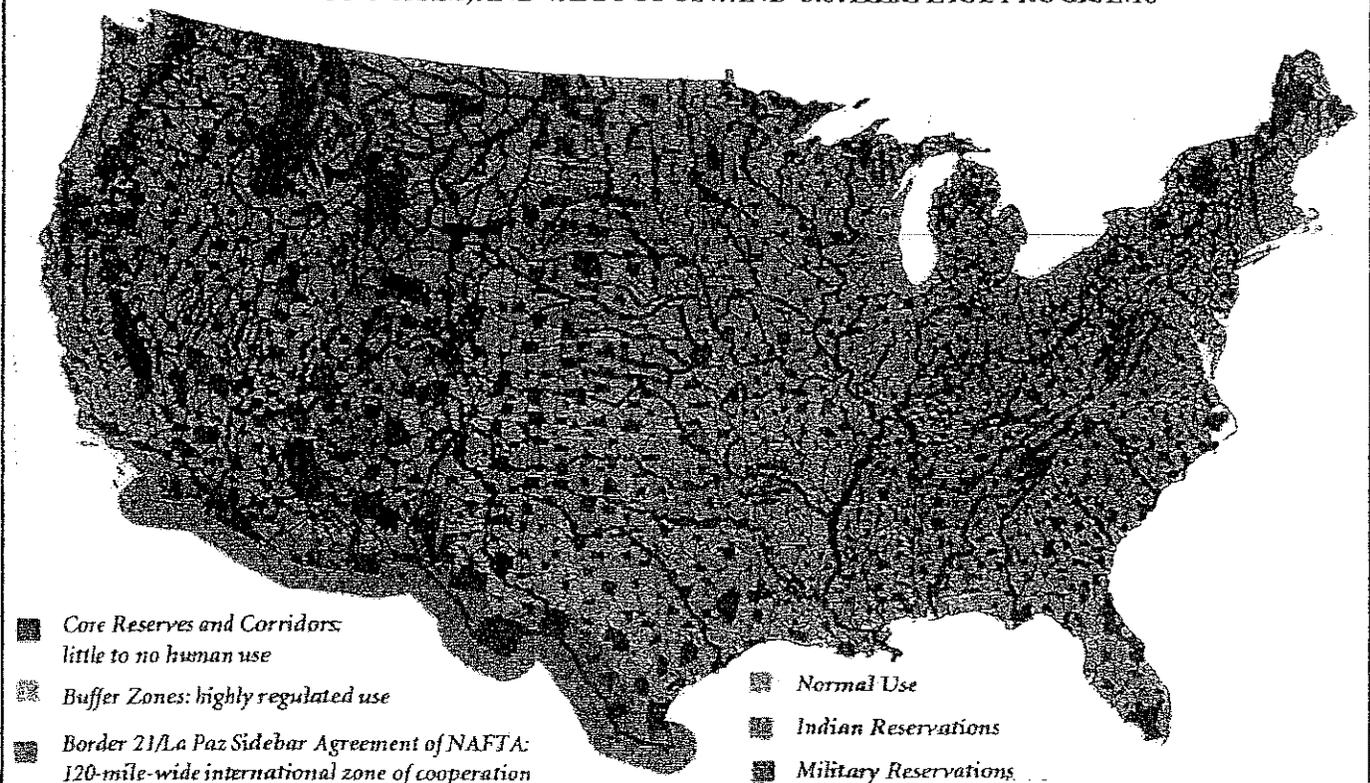
Senate Majority Leader George Mitchell (D-ME), along with several other senators, withdrew the scheduled cloture vote on the treaty and a vote was never taken. That should have been the end of it, but in reali-

ty it was only the beginning.

### **Follow the Money**

While environmental concerns may be legitimate in some cases, many of the accusations made by environmental nongovernment organizations (NGOs) today are nothing more than perceptions created to indoctrinate the public and cause unfounded fear that

## **SIMULATED RESERVE AND CORRIDOR SYSTEM TO PROTECT BIODIVERSITY AS MANDATED BY THE CONVENTION ON BIOLOGICAL DIVERSITY, THE WILDLANDS PROJECT, UNITED NATIONS AND U.S. MAN AND THE BIOSPHERE PROGRAM, AND VARIOUS U.N. AND U.S. HERITAGE PROGRAMS**



Taken from: *The United Nations Convention on Biological Diversity, Article 8a-e; United Nations Global Biodiversity Assessment, Section 13.3.2.2.3; US Man and the Biosphere Strategic Plan, UN/US Heritage Corridor Program, "The Wildlands Project," WildEarth, 1992.*

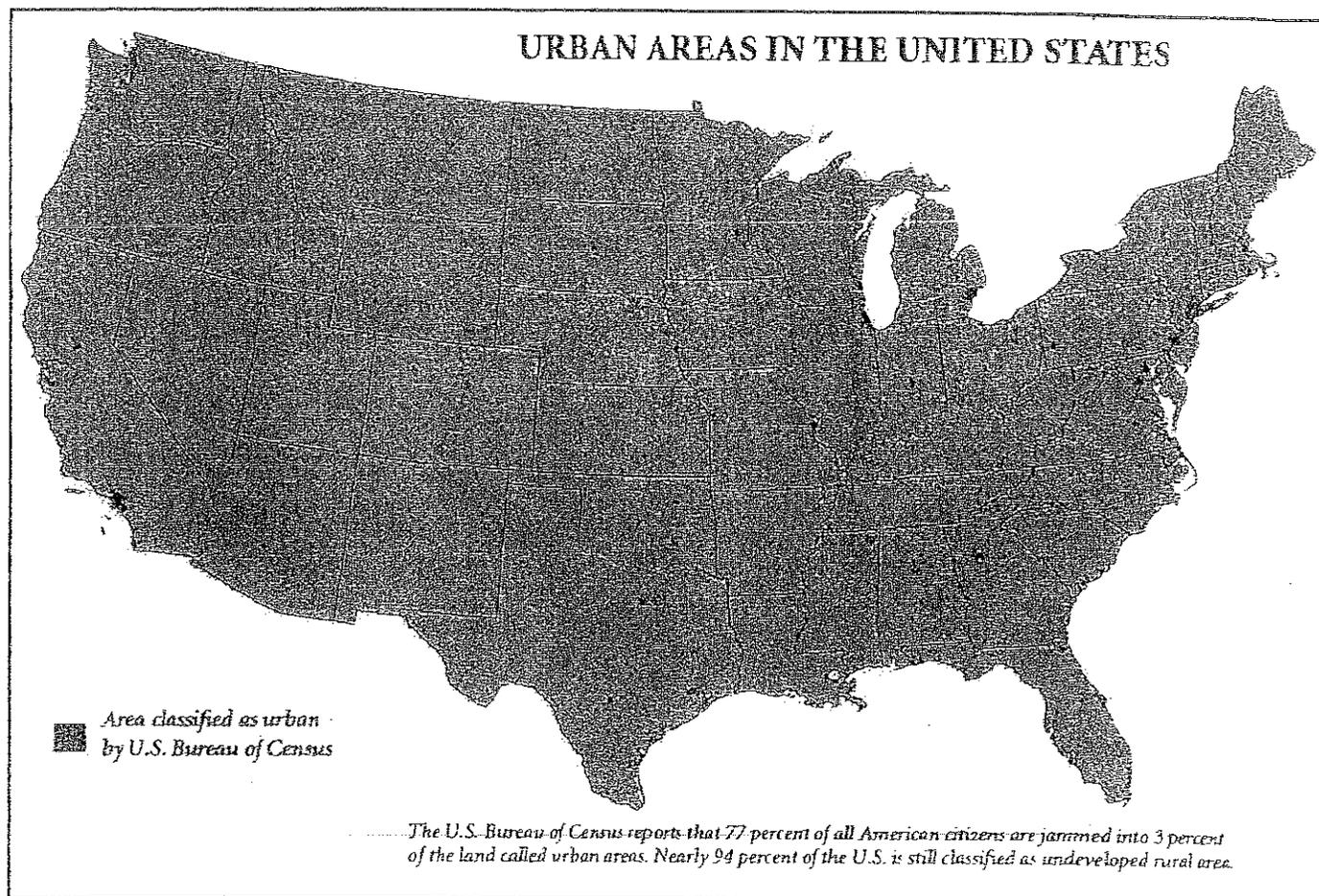
generates income for the NGO. Environmental fear has become a multibillion-dollar business that preys on unknowing urbanites.

Seventy-seven percent of all Americans live in about three percent of America's land area classed as urban by the U.S. Bureau of Census. The number only climbs to a little over six percent when all developed areas are included. Activist NGOs have found it easy to leverage legitimate environmental concerns into profitable campaigns that have marginal

property. James Madison and others even claimed that the entire purpose of government is to protect private property. They knew that private property is the foundation to liberty and wealth creation.

Hernando de Soto, a Peruvian citizen, completed a massive study for the World Bank in the early 2000s, the findings of which were published in "The Mystery of Capital." De Soto's team studied many nations for several years to determine why capitalism tri-

found that it takes 10 to 20 years and many payoffs to register property ownership in these countries. Hence, impoverished citizens do not register their ownership so their property rights are not legally established. De Soto calls this real but unregistered property "dead capital" because its equity is not available for investment. No equity means no capital to build wealth. Since citizens cannot build wealth, neither can the nation, condemned to perpetual poverty no



or negative environmental benefits.

#### **Why Property Rights Matter**

Because urbanites out-vote rural residents by a 3-to-1 margin, they can pass laws that harm rural residents in the belief we need more government land and open space. Yet, most environmental laws strip rural citizens of their ability to use proven management practices to provide goods and services to urbanites. As a result, groceries, appliances, lumber and other commodities cost more.

The higher cost of goods and services is not the most dangerous threat to America. Our founding fathers recognized the critical nature of private property rights as they were firsthand witnesses to the abuse of power that occurs when government controls private

property. He found that strong property rights are the basis of liberty and wealth creation—just as was claimed by America's founding fathers.

For instance, equity loans on personal homes provide the funding for 70 percent of all small business starts in the United States. Small businesses are the economic backbone of America. This would not be possible without strong property rights. In turn, unencumbered legal property rights allow banks the security needed to make the loan in a few days or weeks.

This is not the case in Third World nations. Because of arbitrary regulations and corresponding corruption, de Soto

matter how many socialist income-redistribution plans are imposed by the United Nations.

#### **Manipulating Property Value**

Loss of liberty to faceless bureaucrats who use a corrupt and arbitrary regulatory system to their own advantage is happening to more and more rural citizens in the United States.

Rural citizens are not alone. A growing number of communities are faced with arbitrary regulations under the umbrella of "smart growth" and "urban-growth boundaries." Depending on who draws the arbitrary boundary, low-value agricultural land can instantly be worth millions. Immediately across the urban-growth boundary, these arbitrary regulations prohibit development

and the value of the land remains low. Within 100 yards, one landowner reaps millions and another gets nothing. Arbitrary regulation—no matter how noble the intent—always breeds corruption.

Studies conducted by the Harvard Institute of Economic Research clearly show this enormous economic impact. Quarter-acre lots in cities with minimum smart-growth regulations average \$10,000 to \$40,000 per lot, while similar lots in cities imposing heavy smart-growth regulations average \$200,000 to \$600,000 per lot. There is a strong correlation between the time it takes to get a permit and the cost of the land, just as de Soto found in Third World nations.

Harvard economists Edward L. Glaeser and Joseph Gyourko, in their paper "The

where people can live where they choose and travel freely, to a Wildlands-dominated landscape where people live in designated population centers with limited travel allowed through highly restricted corridors. The Wildlands Project is the master plan for both the United Nations' Agenda 21 and Biodiversity Treaty. In classic socialist utopian idealism, Agenda 21 defines how every human being must live in order to save mother earth. The Wildlands Project represents a grandiose design to transform at least half the land area of the continental United States into an immense "eco-park" cleansed of modern industry and private property.

Wildlands Project coauthor Reed Noss explains their intent: "The collective needs of nonhuman species must take precedence over

defining where gaps exist between already protected areas and those that require protection. These gaps are huge in Midwestern and Eastern states where very little government land exists. Federal, state or local government already own over 40 percent of the land in the United States; however, most of the federally owned land is in the West.

The only way to close these gaps is by taking private property through condemnation, conservation easements or uncompensated regulations. In most cases, access to this land represents a rural family's livelihood and government represents a direct threat to their way of life.

The second federal program implemented at the end of the Clinton administration was the U.S. Forest Service Roadless Area Conservation Rule (RA). RA established blanket nationwide prohibitions generally limiting timber harvest, road construction and reconstruction within 58.5 million acres of inventoried roadless areas on national forests and grasslands. The lives of thousands of people depend on these historically available resources for their living in forestry, livestock production and mining for critically needed minerals. This was one of the first major efforts to convert already restricted government lands into Wildlands status, and accelerated the process of extinguishing the use of private lands within these areas.

On July 14, 2003, the U.S. District Court for the District of Wyoming issued a permanent injunction and set aside the roadless rule. However, the U.S. Forest Service issued a new rule on May 5, 2005, that allows the roadless rule to be imposed with the permission of the governor of each state.

Already existing laws such as the ESA have made it easier for environmentalists to push their Wildlands agenda. By threatening landowners with species listings or habitat designations, they can force private property owners into signing conservation easements or into giving away a large portion of their property to the government or to a land trust as mitigation in order to use just a small portion of their land.

### **Taking Liberty in Northwest**

The government owns 60 percent of Oregon and 42 percent of Washington, so the immediate focus in the Pacific Northwest has been to complete the conversion of these lands into Wildlands and target the private lands within these areas. The ESA has so far been the biggest tool for accomplishing this goal. The designation of the spotted owl gave the environmentalists the surrogate they needed. The spotted owl's "habitat" occupies everything

## **FOR ANYONE WHO DOUBTS THAT ENVIRONMENTALISTS ARE SERIOUS ABOUT DESTROYING PRIVATE PROPERTY IN AMERICA, REDISTRIBUTING THE WEALTH, AND REDUCING THE USE OF OUR NATURAL RESOURCES, THOSE DOUBTS SHOULD BE PUT TO REST. THEY ARE MORE THAN HALFWAY THERE.**

Impact of Zoning on Housing Affordability" (March 2002), emphasized that the entire increase was due to smart-growth regulations. These "feel-good" regulations represent a huge drag on future urban economy.

Little did I know when I prepared the map Sen. Hutchinson used on the Senate floor, that environmental operatives were already in key positions of our government, ready to implement the anti-property rights directives of the United Nations Treaty on Biodiversity. Although the treaty did not pass the Senate, they were able to shift gears, developing the authority necessary to implement the Wildlands agenda under an administrative cloak that didn't require congressional approval. It has been just over 10 years since they actively began transforming America into a Wildlands. What is most frightening is how much they have accomplished in that short period.

For anyone who doubts that environmentalists are serious about destroying private property in America, redistributing the wealth, and reducing the use of our natural resources, those doubts should be put to rest. They are more than halfway there.

### **The Wildlands Project**

Under the Wildlands Project, the United States would be transformed from a land

the needs and desires of humans."

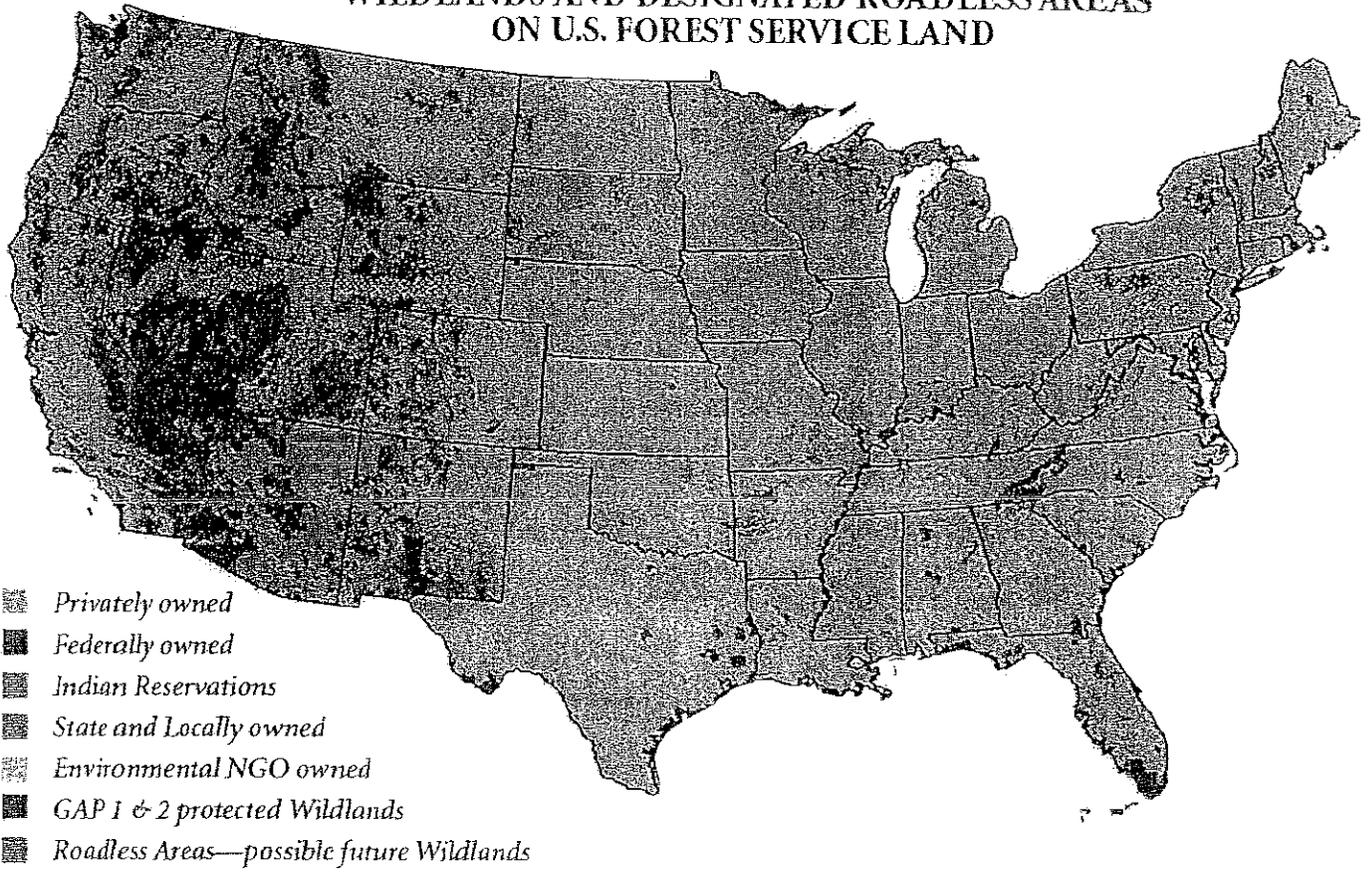
### **Federal Programs**

While many key laws like the Endangered Species Act (ESA), Clean Water Act and dozens of others that would facilitate implementation of the Wildlands agenda were already in place, environmentalists needed to identify areas that had no protection in order to begin converting land to conform to their agenda. The Clinton administration undertook two major programs with no congressional oversight during the 1990s to identify and begin targeting these areas. They were the Gap Analysis Program (GAP) and the Roadless Area Rule.

The GAP process starts by analyzing existing protected government land, then overlays geographical data of vegetation habitat, animal distribution and property ownership. Land ownership is further divided into stewardship classes: (1) is "fully protected" (such as wilderness areas); (2) is "mostly protected" (national parks and many wildlife refuges); (3) is "partially protected" (national landmarks and multiple use areas like U.S. Forest Service lands); and (4) is "no known land protection" (usually private land). Classes 1 and 2 are often combined.

Although GAP sounds innocent, even noble, it is designed for the sole purpose of

## AREAS IDENTIFIED AS GAP CLASSES 1 & 2 PROTECTED WILDLANDS AND DESIGNATED ROADLESS AREAS ON U.S. FOREST SERVICE LAND



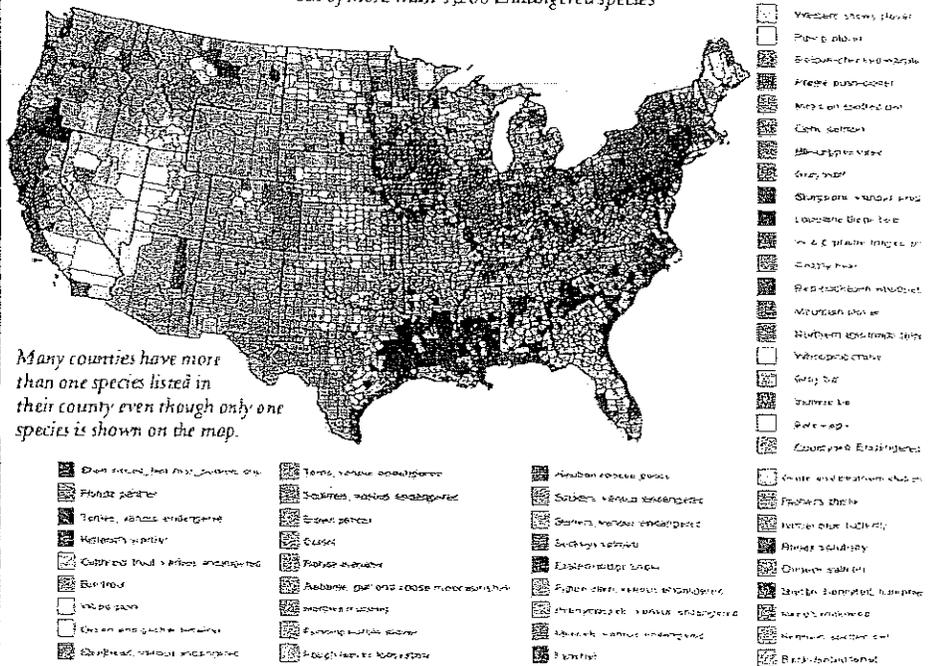
west of the Cascade mountain range's centerline, which includes large tracts of private property. The intention was never to save the bird, but to make ghost towns out of entire communities.

The federal government, State of Oregon and environmental NGOs collaborated to completely shut down agriculture in the Klamath Basin of south-central Oregon in 2001. Federal agents misrepresented the amount of water needed for endangered suckerfish in Klamath Lake, resulting in the loss of all irrigation water to farmers in the basin and turning farmland into dustbowls. The environmental NGOs fulfilled their mission.

Even though their land essentially became worthless, the State of Oregon did nothing to help the farmers. Thousands of Klamath residents lost their jobs, and businesses that supported farming faced financial ruin. Later that summer, the National Academy of Sciences reviewed the data supporting the court decision and found "no clear evidence" that high lake levels benefited the fish or "convincing scientific justification" for not allowing the farmers to continue to use the

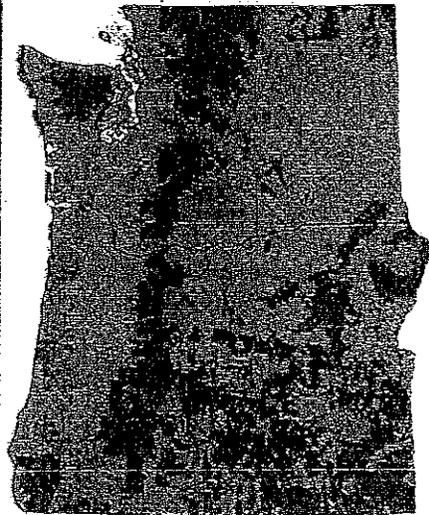
## ENDANGERED SPECIES BY COUNTY

*56 species or species groups  
out of more than 1,200 endangered species*



*Many counties have more than one species listed in their county even though only one species is shown on the map.*

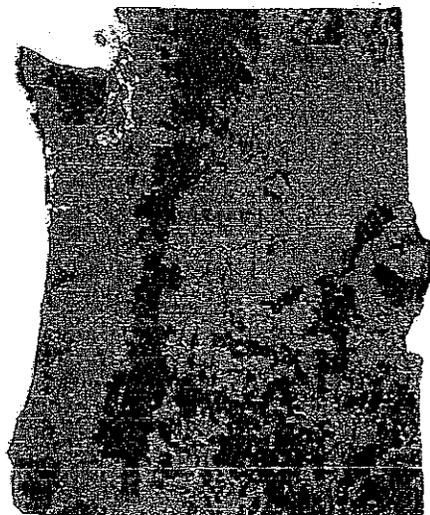
## LAND OWNERSHIP IN OREGON/WASHINGTON



Most people are unaware that 60 percent of Oregon and 42 percent of Washington are owned by the federal, state or local government.



## LAND CONTROL IN SPOTTED OWL HABITAT



The endangered spotted owl was used by environmental NGOs and wildlife biologists to shut down much of the logging in western Oregon and Washington even though it was later determined that the owl thrived in second-growth forests.

water for irrigation. In fact, evidence showed that the suckerfish seemed to do better when the farmers used the lake water for irrigation. In reality, an arbitrary ESA decision based on highly questionable science brought economic devastation to an entire region.

On the eastern side of the Cascade Mountain Range, the federal GAP analysis showed that large tracts of land were already protected or nearly protected, but there were still many ranchers, miners and foresters who used these lands and held legitimate property rights. A concerted effort was made through the Clinton administration to begin the transformation of this region through the Interior Columbia Basin Ecosystem Management Project in 1993.

The project attempted to develop cooperative management strategies between federal, state and local governments to control land use over the 64-million-acre Columbia Basin Ecosystem east of the Cascade mountains into Idaho, western Montana and northwest Wyoming. Citizens strongly opposed it and in 2003, after a 10-year study, only federal agencies and NGOs continued the program.

Individuals living within populated areas of the Northwest are also beginning to feel the effects of the Wildlands agenda to move urban growth into designated "human occupation zones." For example, in 1979 planners

drew an Urban Growth Boundary line around Portland, Ore., to control urban sprawl. Land values within the smart-growth boundary skyrocketed. Land values outside plummeted.

Smart growth causes severe economic hardship. In 1990, two out of three families could afford a home in the Portland area. That figure dove to one out of three by 2000. The problem became so bad that in 2004 the citizens of Oregon overwhelmingly passed Measure 37, requiring just compensation for landowners suffering from smart-growth regulations and other land-control restrictions.

### Taking Liberty in Southeast

Except for parts of Florida and the southern Appalachians, the Southeast generally has very little federal, state and local government land that activists can use to lobby for creating Wildlands. So, to speed the process up and help identify private land for Wildlands protection, Region 4 of the U.S. Environmental Protection Agency (EPA) and the University of Florida's GeoPlan Center conducted a GAP analysis called the Southeastern Ecological Framework Project in 1999-2000.

The project prioritized ecological areas in the Southeast that need protection. Because GAP gives such a high priority to ecosystems over people, more than 60 percent of the

Southeast—nearly all rural areas and private land—was identified as having a high protection priority.

Florida has already undertaken a number of statewide initiatives to implement the Wildlands Project under a variety of names of which the Greenways Planning Project and Save Our Rivers Program are the largest.

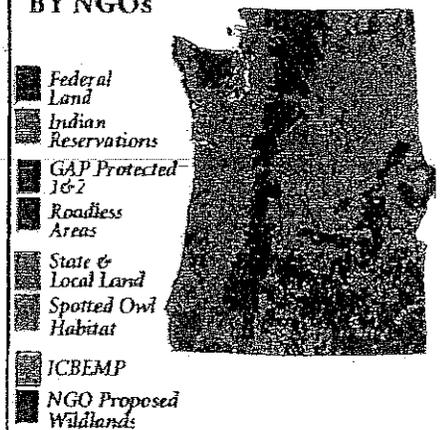
During the 1990s these programs were under the umbrella of the Preservation 200 Act, changed by the Florida Legislature in 2000 to Florida Forever. The goal was to place as much as 80 percent of Florida into Wildlands reserves and corridors, which they call hubs and linkages.

By 1999, Florida had purchased 1.3 million acres through the Save Our Rivers Program. After 2000, the same program targeted new lands for acquisition by "green-lining" huge areas of land. Green-lining typically locked the land value at rock-bottom prices, denying the landowner any chance for receiving highest and best value for his land, thereby skinning the landowner's equity for the government.

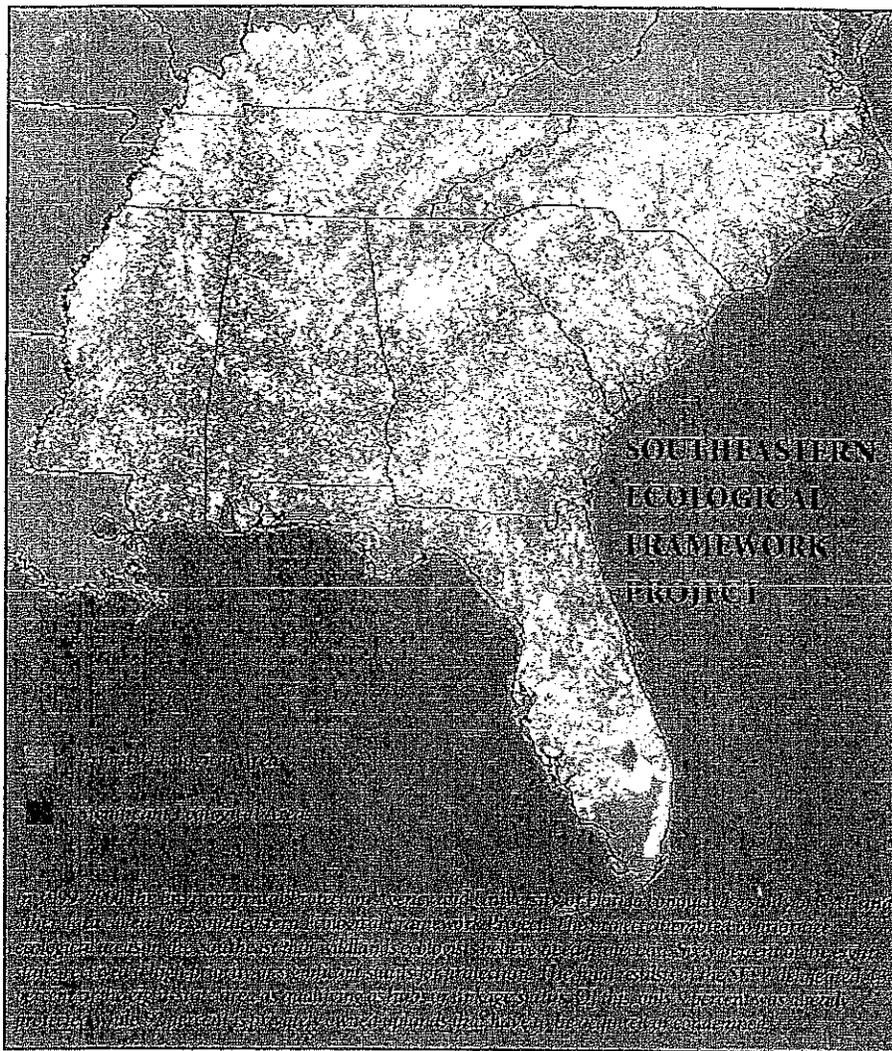
By 2005, Florida had purchased another 800,000 acres throughout the state increasing state ownership from 29 to 37 percent.

The state used conservation easements to acquire development rights on an additional 315,000 acres at about one-third the cost of

## WILDLANDS PROPOSALS BY NGOS



During the Clinton administration all land east of the Cascade Mountain Range of Oregon and Washington was classified as the Interior Columbia Basin Ecosystem Management Program (ICBEMP) ostensibly to develop ecosystem management strategies that would protect the core values of nature. However, other places where this approach has been used, such as the Columbia Gorge National Scenic Area or the Adirondack State Park in upstate New York, reveal that all property rights come under the control of government bureaucracies. The Defenders of Wildlife have proposed additional areas to be included as GAP 1&2 Wildlands in Oregon.



what the state would have had to pay to buy the land outright. The landowners often sell the easement for quick cash, figuring the land will never have much future value. Or the landowner sells the easement because regulations have made it increasingly difficult to make a living on or to otherwise use the land.

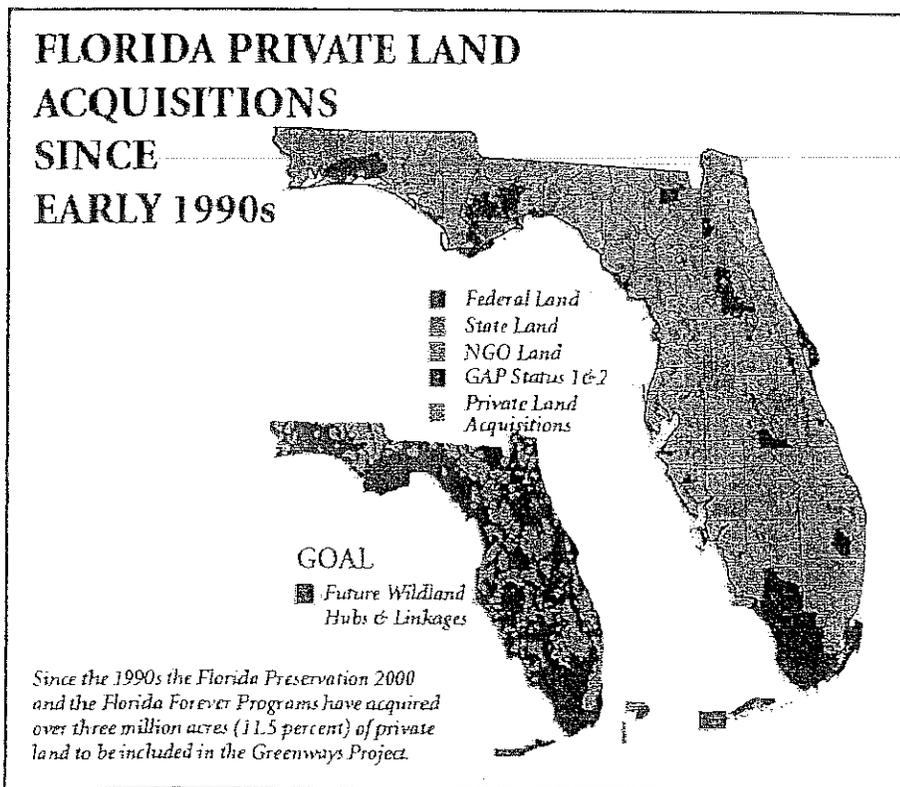
Florida is cannibalizing its private land in the name of protecting nature. It is not the only state in the East that is doing so. Delaware, Maryland, New Jersey, Rhode Island and New York are also following closely in Florida's footsteps. These states are also identifying greenway hubs and linkages for the Wildlands Project.

### Taking Liberty

Local communities will always need regulations that focus on true harm, nuisance and public health. A healthy economy is required to protect the environment. If the local, state or U.S. economy declines because arbitrary regulations limit or remove private property from production, it is highly probable that the very efforts to protect the environment will eventually cause its decline.

The end result will not be the eco-utopia the greens envision. It will be a land owned by government and elite land trusts. In truth, the Wildlands agenda is not about whether America's land and resources will be used for human benefit; it is about who will own them. Private property rights are as important to the environment as they are to people. ■

*Dr. Michael Coffman is president of Environmental Perspectives, Inc., in Bangor, Maine. He has a Ph.D. in forest sciences and has taught and conducted research in ecosystem classification, global warming and acid rain for 25 years before founding Environmental Perspectives. He can be reached at 207-945-9878.*



### Taking Liberty on the Web!

"Taking Liberty" is a sophisticated Web-based animated program with narrations and stunning visuals showing the progress environmentalists have made and what programs they are using in their efforts to implement the radical Wildlands agenda. It is funded and produced by the American Land Foundation in Taylor, Texas, and Stewards of the Range in Meridian, Idaho. The program can be viewed at <[www.takingliberty.us](http://www.takingliberty.us)>. CDs of the program can also be purchased on the Web site or by calling 1-800-452-6389. They are \$15 each; 4-9 for \$12 each; and 10 or more for \$10 each. The maps shown in this article (a few of many) and in the program are also available for purchase.

## Forum looks at expansion of Waterton Park

A science forum on expanding Waterton Glacier International Peace Park into British Columbia will be from 7 to 9 p.m. Monday, March 12, at Grouse Mountain Lodge in Whitefish.

A \$10 donation at the door is suggested. A cash bar will be available. Seating is limited. Call 837-0783 for more information.

During the forum three leading researchers will give presentations on transboundary grizzly bear populations, aquatics, fisheries, ungulates and predator wildlife species with a focus on recent scientific discoveries and insights made in the vicinity of Waterton-Glacier International Peace Park.

Richard Hauer, director of the recently formed Montana Institute on Ecosystems of the University of Montana, will speak about the biological richness of the transboundary Flathead River (also known as the North Fork Flathead River), and make the case that the Flathead River system is one of the most ecologically intact rivers in the Lower 48.

Michael Proctor is the principal investigator for the Trans-Border Grizzly Bear Project based in British Columbia. He recently published a groundbreaking study published in

See FORUM on Page A6

## Flathead River system focus of one speaker at Whitefish forum

is a Flathead Valley-based conservation organization that has worked with other conservation groups to help protect the North Fork Flathead, Glacier Park and Flathead Lake from potential harm from upstream open-pit coal mining.

**FORUM FROM A4**  
Wildlife Monographs that documents the challenges facing grizzly bears in the transboundary region of the Rocky Mountains between Montana and British Columbia.

John Weaver is senior conservation scientist for the Wildlife Conservation Society. He has published several monographs on the abundance and distribution of ungulates and carnivores in the transboundary Flathead Region and recently released "Conservation Value of Roadless Areas for Vulnerable Fish and Wildlife Species in the Crown of the Continent Ecosystem."

Sponsors of the forum include Flathead Valley-based Headwaters Montana, Wildsight, National Parks Conservation Association, Canadian Parks and Wilderness Society, Yellowstone to Yukon Conservation Initiative and Sierra Club. B.C. Headwaters Montana

Monday  
2-27-12

Daily Shuttlelake

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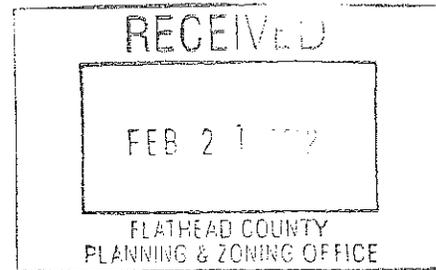
**892-2878**

265867-8

FEB 28 2012

Debbie Biolo  
1985 Hodgson Rd.  
Whitefish, MT. 59937  
406-471-8907

2-21-2012



Flathead County Planning Board

I appreciate the opportunity to have spoken with you at the Feb. 15 hearing on the Growth Policy Draft.

At that hearing you invited those of us with concerns to contribute material about property rights to further your efforts to draft Part 4. At the hearing I asked you where the attitudes and ideology and language came from and if the communal, collective slant over individual rights of property owners is what we want in our document for the Flathead Valley.

I exchanged phone numbers with a couple I met at the hearing who told me they had some material they would like to share with me that I found very enlightening and would like to share it with you.

It is a newsletter published by the American Policy Center entitled Sustainable Development. In the text it describes the process by which local elected officials are loosing control over their own community's regulatory process. In it it describes the process that was followed to develop our Growth Policy. To quote " Civic leaders organize community meetings run by "facilitators" as they outline a "vision" for the town enforced by "consensus."

Free trade, social justice, consensus, global truth, partnerships, preservation, stakeholders, land use, environmental protection, visioning, diversity, open space, heritage, comprehensive planning, critical thinking and community service are all part of the new language. The newsletter points out how "the language is being manipulated to quietly implement a very destructive policy, Sustainable Development." The newsletter describes Sustainable Development as " a process by which America is being reorganized around a central principle of state collectivism using the environment as bait. " The newsletter warns of "accepting the perception of Sustainable Development as simply good environmental stewardship is a serious and dangerous mistake."

It points out that "private property is incompatible with the collectivist premise of Sustainable Development." It states that "the sustainablist system is based on the principle that individuals must give up their needs for the common good of the community." I continue to quote the newsletter because there in print is exactly what I was trying to express to you when I likened to "community expectations" regarding property rights in our Growth Policy with a participant in the public process regulating his neighbors land because he likes to see green grass swaying and horses tails swishing when he drives to work from Whitefish to Kalispell. To quote further "under the Sustainable Development system private property is an evil that is used simply to create

wealth for a few. So too, is business ownership. Property and businesses are to be kept in the name of the owner, keeping them responsible for taxes and expenses, however control is in the hands of the community" through regulations and restrictions such as we are debating now with our Growth Policy revision. Quoting further the newsletter states, "under Sustainable Development there can be no concern over individual rights - as we must all sacrifice for the sake of the environment. Individual needs and desires are to be conformed to the views and dictate of social planners. " "The politically based environmental movement provides Sustainable Development camouflage as they work to transform the American systems of government, justice and economics. "

"Americans ask how dangerous policies can suddenly turn up in state and local governments, all seemingly uniform to those in other communities across the nation. " Sustainable Development policies are being implemented across the nation by a non profit private foundation "ICLEI- Local Governments for Sustainability." "As these policies are implemented, locally-elected officials are actually loosing power and decision making ability in their own communities." Most decisions are being made by non-elected councils and planners armed with truckloads of federal regulations, guidelines, grant money, software, access to a network of green experts, newsletters, conferences and workshops, toolkits, templates, case studies, fact sheets, policy and practice manuals, and training workshops for planning staff.

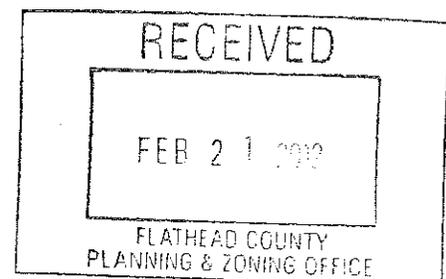
PLEASE TAKE STOCK OF YOUR DOCUMENT to ensure that the ideas and attitudes that you choose to incorporate into our Growth Policy are not being fed to you from elsewhere, and that you make rules and regulations that are just and fair for Flathead County individuals and businesses.

For information or copies, contact:

American Policy Center  
70 Main St. Ste 23  
Warrenton, VA 20186  
540-341-8911  
[www.americanpolicy.org](http://www.americanpolicy.org)

Thank you for allowing the public to participate, it is appreciated. This newsletter made an awful lot of sense to me, and I was able to draw local parallels to every thing it spoke about.

Thank you. Debbie Biolo



## Allison Mouch

---

**From:** Lorch, Steve [slorch@mt.gov]  
**Sent:** Thursday, February 16, 2012 2:46 PM  
**To:** Allison Mouch  
**Cc:** Frye, Steve; BJ Grieve  
**Subject:** Flathead County Growth Policy - DNRC input  
**Attachments:** Flathead County Planning Growth Policy Comments and proposed language 2-16-2012.doc

Hi Allison,

I am attaching a copy of the Flathead County Growth Policy input that I provided on behalf of Montana DNRC at the public hearing during last evening's Flathead County Planning Board meeting.

I have added in red text some language as requested of me during board discussion that will address my concerns and help clarify DNRC's role and responsibilities with respect to management of recreational use on State Trust Lands.

Thank you for your assistance in facilitating this discussion. Please let me know if there is anything else I can do toward affecting the desired clarifications.

Sincerely,

Steve



*Steve Lorch, a.i.c.p.  
Community Planner  
MT DNRC Northwestern Land Office  
655 Timberwolf Parkway, Suite 1  
Kalispell, MT 59901-1215  
ph: 406-751-2262  
cell: 406-250-1096  
e-mail [slorch@mt.gov](mailto:slorch@mt.gov)*

Flathead County Planning Board.  
DNRC comments to Draft Growth Policy  
2-15-2012  
Steve Lorch

From Chapter 2, Land Uses:

1. **(DRAFT Page 5)** Policy 1.3 – *Attempt to develop cooperative agreements with the Montana Department of Natural Resources and Conservation and Department of Fish, Wildlife and Parks on issues including, but not limited to, land use conversion, adjacent land development, land use planning documents, public hearings, trust land uses, public access for recreation, land acquisition and state exchanges of trust land with private and federal entities.*
  - a. Lumping FWP in here will mislead people into thinking that they are generally involved in the management of Trust Land. Suggest a separate policy or sentence within this policy to list FWP and the specific issues that the county would like to work with them on (e.g. public access for recreation, recreation programs, fishing access sites, etc...).
  - b. The FWP agency name does not include the word “Department” – it is just “MT FWP”.
  
2. **(DRAFT page 14)** 3<sup>rd</sup> paragraph, PART 1: Federal, State and Tribal Lands - *The State of Montana manages a substantial acreage within Flathead County. Lands managed by the DNRC Trust Lands Management System account for approximately 130,953 acres of Flathead County.*
  - a. Striking the word “system” and replacing it with the word “division” would be a more accurate moniker.

Parks and Recreation Chapter

1. **(DRAFT Page 54)** Part 3, Table 4.2 showing the *13,000 acres of Whitefish Trust Lands as a “recreation area” and “managed by FWP”.*
  - a. This would perpetuate an ongoing misunderstanding and I respectfully request that this line be removed from the table as it is not a “State Recreation Area”. Also, FWP does not manage recreation on these lands. They do have licenses and lease in some cases such as at formal Fishing Access Sites (FAS) and certain state parks that occupy Trust Land but other than those their role is Law Enforcement only.

As a follow-up to the 2/15/2012 Planning Board public hearing, I would request that the line item pertaining to Whitefish State Trust Lands within table 4.1 be removed. As requested during Planning Board discussion, I offer the following language and suggest it may fit well in Chapter 4, Part 3 following Table 4.1:

*Stillwater State Forest and other scattered State Trust lands managed by MT Department of Natural Resources and Conservation (DNRC) for timber production in Flathead County have also historically been used for hunting, fishing and other individual outdoors-oriented general recreational use. DNRC is responding to manage steadily increasing interest in commercial recreational use and more organized and developed recreational uses, especially in the urban interface lands such as those near Whitefish (e.g., groomed snowmobile and ski trails, commercial horseback riding, backcountry skiing access, dog mushing, improved hiking/biking trail system and various associated guiding services).*

Chapter 8, Natural Resources

1. **(DRAFT Page 145)** Part 3, Land Resource; Forestry (last paragraph) – *The State of Montana manages approximately 130,953 acres of forested trust lands in Flathead County. The lands are managed by the Montana Department of Natural Resources Conservation Trust Lands Management System. ...*
  - a. Again, strike the word “system” and replacing it with the word “division”.

**Allison Mouch**

---

**From:** BJ Grieve  
**Sent:** Thursday, February 16, 2012 11:01 AM  
**To:** 'Zura Crowder'  
**Cc:** Allison Mouch  
**Subject:** RE: Growth Policy & Whitefish Transition

Thanks for your organization's input Mr. Crowder, I will forward it to Allison who compiles written comments received between workshops.

Allison compiles these then distributes them to the Board at the workshop but prior to discussion so they may adequately consider them as part of their discussion. As you know, the next workshop was scheduled last night for February 29, 2012.

Again, thanks for your participation!

BJ Grieve, AICP<sup>®</sup>, CFM<sup>®</sup>  
Planning Director  
Flathead County Planning & Zoning  
1035 First Avenue West  
Kalispell, MT 59901-5607  
Phone: 406.751.8200  
Fax: 406.751.8210

**From:** Zura Crowder [<mailto:americandreammt@yahoo.com>]  
**Sent:** Thursday, February 16, 2012 10:26 AM  
**To:** BJ Grieve  
**Subject:** Re: Growth Policy & Whitefish Transition

BJ...We appreciate the fact that we as well as others that gave testimony before the Planning Board are being encouraged to submit our recommendations for changes to Part 4, the Property Rights section in the Growth Policy. Because of American Dream Montana's confidence in the experience and capabilities of most of the present members of the Board, we have decided that we would prefer to review and comment on the Board's recommendations after their deliberations on this matter. We do however believe that any meaningful Property Rights provision must at a minimum accomplish two main goals":

1. Make it clear that Private Property Rights are not "communal" but rather , protected "individual" Rights.
2. Acknowledge that the Montana Supreme Court has determined Growth Policy's and their Amendments to be Regulatory.

Thanks for your consideration BJ.....Russ Crowder...Chairman, ADM.

**From:** BJ Grieve <[bgrieve@flathead.mt.gov](mailto:bgrieve@flathead.mt.gov)>  
**To:** BJ Grieve <[bgrieve@flathead.mt.gov](mailto:bgrieve@flathead.mt.gov)>  
**Sent:** Tuesday, December 6, 2011 12:16 PM  
**Subject:** Growth Policy & Whitefish Transition

Hi everyone, two brief pieces of planning news to share...

**Growth Policy Update:** The Planning Board is continuing work on updating the county-wide Flathead County Growth Policy. The attached press release slated for tomorrow is regarding the next "checkpoint" workshop to be held Dec. 14, 2011 at 6:00 pm in the Earl Bennett Building 2<sup>nd</sup> Floor Conference Room. All the work they've been doing continues to be available at the link below...

[http://flathead.mt.gov/planning\\_zoning/growth\\_resolution2015a.php](http://flathead.mt.gov/planning_zoning/growth_resolution2015a.php)

**Rural Whitefish Jurisdiction Transition:** This morning the Commissioners signed a "Notice of Public Hearing" regarding a proposed "Rural Whitefish Interim Zoning District." The hearing will be held January 12, 2012 at 10:00 a.m. in the Commissioner's Chambers in the Old Courthouse Building. A copy of the notice is attached to this email. It outlines the reason for the zoning, the general character of the regulations and the boundary of the zoning district, as well as the date, time and place for the public hearing. It also gives a link to the map showing the locations of the individual zoning classifications. That link is provided below for your convenience...

[http://flathead.mt.gov/planning\\_zoning/RuralWhitefishInterimZoningDistrict.php](http://flathead.mt.gov/planning_zoning/RuralWhitefishInterimZoningDistrict.php)

As always, please call or reply with questions, comments, etc. or with suggestions to improve the clarity or "user-friendliness" of the information we're providing.

BJ Grieve, AICP<sup>®</sup>, CFM<sup>®</sup>  
Planning Director  
Flathead County Planning & Zoning  
1035 First Avenue West  
Kalispell, MT 59901-5607  
Phone: 406.751.8200  
Fax: 406.751.8210

Debbie Biolo  
1895 Hodgson Rd.  
Whitefish, Mt. 59937  
406-862-3722

2-29-12

Flathead County Planning Board:

Hopefully you will take this opportunity to look into the outside influences that you are dealing with when you are given pre-conceived material to put your stamp on. I have compiled these sources that I have been introduced to since your hearing on Feb 15 when I asked you: where does this material come from? Who wrote this document? What is this jargon? You will be enlightened as I have been with the answers that are readily available.

Taking Liberty Dr. Michael Coffman [www.takingliberty.us](http://www.takingliberty.us)

Alternatives to the UN's Agenda 21 Program for Sustainable Development  
[www.freedom21.org](http://www.freedom21.org)

Understanding Sustainable Development Freedom Advocates  
[www.freedomadvocates.org](http://www.freedomadvocates.org)

Agenda 21 and You John Birch Society [www.jcb.org](http://www.jcb.org)

American Policy Center Tom DeWeese [www.americanpolicy.org](http://www.americanpolicy.org)

Feb. 29<sup>th</sup>, 2012

#### PART 4: PROPERTY RIGHTS

Preserving and protecting the fundamentals of private property rights for the residents of Flathead County remains important in the creation of this Growth Policy as well as the administration of all land use regulations throughout the jurisdiction. As a property owner in Flathead County, you can reasonably expect the following:

1. A land owner has the right to make a land use application to the County and have that land use application reviewed according to the statutory requirements in a timely manner in accordance with due process.
2. That all rules and regulations established by the governing body shall be followed in accordance with state law.
3. That all meetings of Boards and Committees appointed by the local governing body will abide by open meeting, record retention and ADA laws and regulations established or adopted by the State of Montana.
4. That open and accountable service will be provided by the Flathead County Planning & Zoning Office as well as all departments of County government.
5. That all landowners will receive fair and equal treatment during their interaction with the County and during the review and processing of all land use applications.

Property rights are protected individual Rights that guarantee a property owner's Right to use his or her property as he or she wishes, limited only by a reasonable, lawful and compelling public need. Because of the increasing emphasis by the Montana courts on the "Regulatory" nature of Growth Policies, any regulatory requirements that apply to the use of private property using this Growth Policy or its' Amendments as its' lawful basis must meet the following requirements:

1. Must be carefully drafted to ensure the highest probability of meeting the constitutional tests of; a) ensuring substantive due process, b) providing procedural due process, c) ensuring equal protection, and d) avoid a "taking".
2. Must recognize that a key element to the custom and culture as well as the general welfare of Flathead County and its' citizens and property owners, is a strong commitment to protecting individual property rights.
3. Must be reasonably related to and must actually further the public health, safety or general welfare.
4. Must not unreasonably discriminate between similarly situated land or uses.
5. Must not be arbitrary or capricious either on its' face or as applied to a particular property and should go no farther than is required to achieve its' legitimate objective.
6. Must not have the effect of excluding racial, minority, or economic groups from the jurisdiction and must guarantee representation for all property owners.

In the event of a conflict between the provisions in this Part and any other provision in this Growth Policy and its' Amendments, this Part shall control.



2/29/2012

To: Flathead County Planning Board  
Re: Flathead County Five-Year Growth Policy Update

Citizens for a Better Flathead appreciates this opportunity to once again comment on the Flathead County Growth Policy update. As a follow up to the public hearing that you held on the Growth Policy workshop that you are hosting as a follow up to that workshop, we have once again reviewed the Part 5 Property Rights in Flathead County as well as comments you had received on this section as of 2/27/2012.

We believe that the planning board has drafted a basically fair and balanced statement on property rights for inclusion in the growth policy. We recognize that this represents perhaps a compromise in what others or we may have drafted, but we are comfortable that it represents the complexity of this issue in a reasonable manner.

Sincerely,

Mayre Flowers



Debbie Biolo  
1985 Hodgson Rd.  
Whitefish, MT. 59937

2-27-2012



Flathead County Planning Board:

The institution of private property has long been understood by the founders of America and consequently included in the Declaration of Independence, The Constitution, and the Bill of Rights.

The right to property is premised on an owner's determination of its use, provided that such use does not disturb the equal rights of another. Liberty in America was established by our founders, directed by reason and respect for the dignity of individual determination.

The Declaration of Independence states "all men are endowed by their Creator with certain unalienable rights, that among those are Life, Liberty, and the Pursuit of Happiness." This directive is intended to protect the natural or unalienable rights of each individual. You are born with rights. The government in America exists to protect those rights. You and the product of your labor belong to you.

American founders recognized the critical nature of private property rights as they witnessed first hand the abuse of power that occurs when centralized government controls property. James Madison and others knew that private property is the foundation to liberty and wealth creation. John Adams pointed out that "property must be secured, or liberty cannot exist." George Washington stated "private property and freedom are inseparable."

Contrast our founders statements with those of Karl Marx who in his "Manifesto To The World" in 1847 calls for the "abolition of private property" and the "establishment of communal ownership of property in a classless, stateless society," along with "the elimination of family as a social unit." In opposition to our American premise is the view of Marx and other socialists that "rights and freedom may in no case be exercised contrary to the purpose of the state." In their view government grants rights, and restricts or withdraws rights according to its needs. You and the product of your labor belong to the community where rights are granted and rescinded by men. Control of the individual is for the greater good of the community.

Author V.H. Heywood in the Global Biodiversity Assessment, United Nations Environment Programme, Cambridge University Press, Cambridge (1995) states that "for progress to be made in implementing Sustainable Development in the United States, unalienable rights such as the right to property must be eroded, attacked, and struck down altogether."

Frankly, what I read in your Growth Policy fully follows the Sustainable Development agenda to the word. It sounds more like Karl Marx than it does our respected American founders, or our Constitution.

Please don't be led down this path without taking stalk of what you are being fed and by whom. A litany of abuse results by accepting pre-conceived plans, which use manipulative "visioning" sessions to garner appearance of public "consensus." Did your Growth Policy come from some draft or template or kit, so that it reads just exactly like the Growth Policy in Great Falls or Missoula?

Please protect our valley and your constituents in the Flathead from such abuse and take a good hard look at what you are doing and what are the consequences of your actions.

Do your own research as I have since attending your Feb. 15 hearing. Look into Agenda 21, out of the United Nations and its implementation in the United States through ICLEI and make your own parallels, they are readily apparent. I appreciate the opportunity to have this input. Debbie Biolo

These maps can be viewed in color online -  
much more effective - [www.freedomadvocates.org](http://www.freedomadvocates.org)

# TAKING LIBERTY

*How private property in America is being abolished.*

*By Michael S. Coffman, Ph.D.*

*All maps (except for Wildlands Project map, below) created by Environmental Perspectives, Inc., produced and funded by American Land Foundation and Stewards of the Range.*

One hour before the U.S. Senate was to adopt the United Nations Treaty on Biodiversity, Sen. Kay Bailey Hutchinson (R-TX) went to the floor with a 300-plus-page draft copy of Chapter 10 of the United Nations Global Biodiversity Assessment and a 4'x6' poster.

The poster showed the lower 48 states overlaid with hundreds of red islands representing wilderness areas interconnected by thousands of red ribbons called corridors, all surrounded by yellow buffer zones. Small green patches were "human occupation zones." The agenda was so outrageous it would have been discounted, except that Sen.

Hutchinson had the proof in her hands. The date was Sept. 29, 1994, and the agenda was called the Wildlands Project.

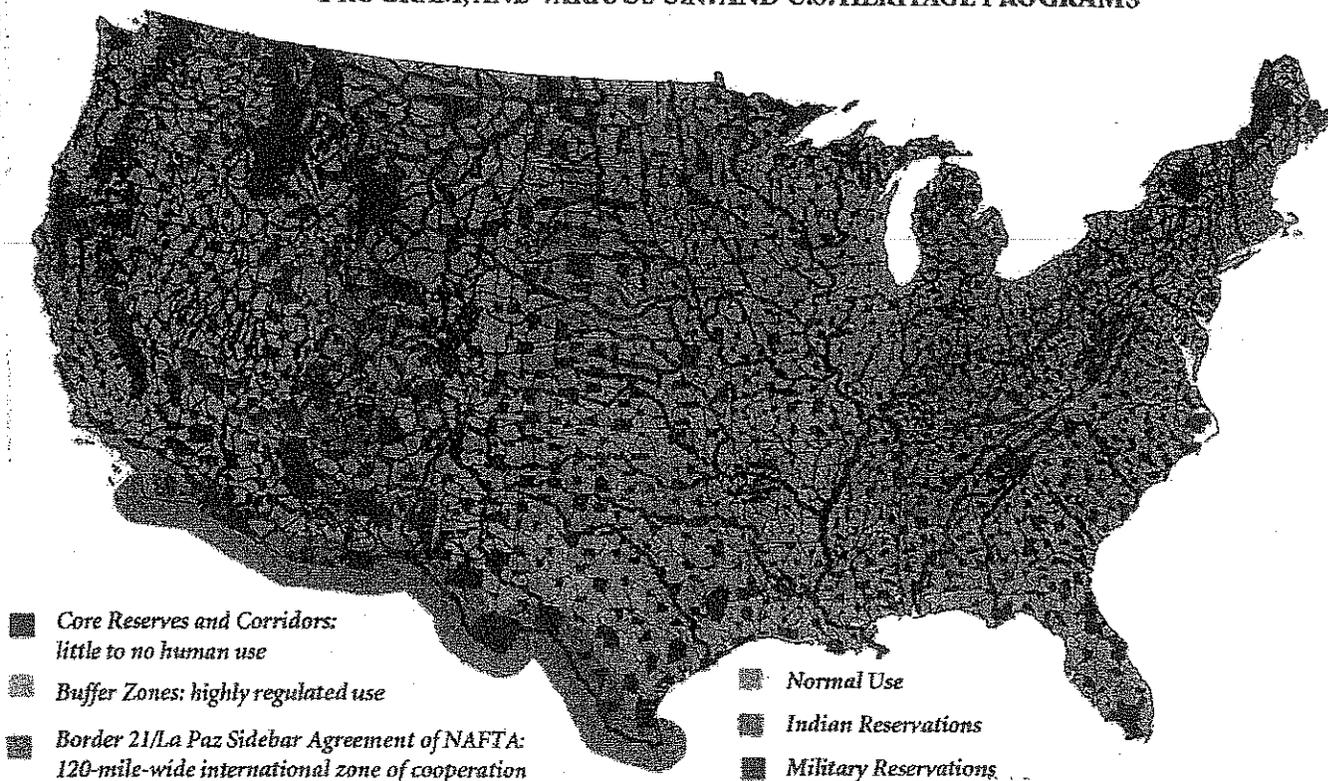
Senate Majority Leader George Mitchell (D-ME), along with several other senators, withdrew the scheduled cloture vote on the treaty and a vote was never taken. That should have been the end of it, but in reali-

ty it was only the beginning.

## **Follow the Money**

While environmental concerns may be legitimate in some cases, many of the accusations made by environmental nongovernment organizations (NGOs) today are nothing more than perceptions created to indoctrinate the public and cause unfounded fear that

## **SIMULATED RESERVE AND CORRIDOR SYSTEM TO PROTECT BIODIVERSITY AS MANDATED BY THE CONVENTION ON BIOLOGICAL DIVERSITY, THE WILDLANDS PROJECT, UNITED NATIONS AND U.S. MAN AND THE BIOSPHERE PROGRAM, AND VARIOUS U.N. AND U.S. HERITAGE PROGRAMS**



*Taken from: The United Nations Convention on Biological Diversity, Article 8a-e; United Nations Global Biodiversity Assessment, Section 13.3.2.2.3; US Man and the Biosphere Strategic Plan, UN/US Heritage Corridor Program, "The Wildlands Project," WildEarth, 1992.*

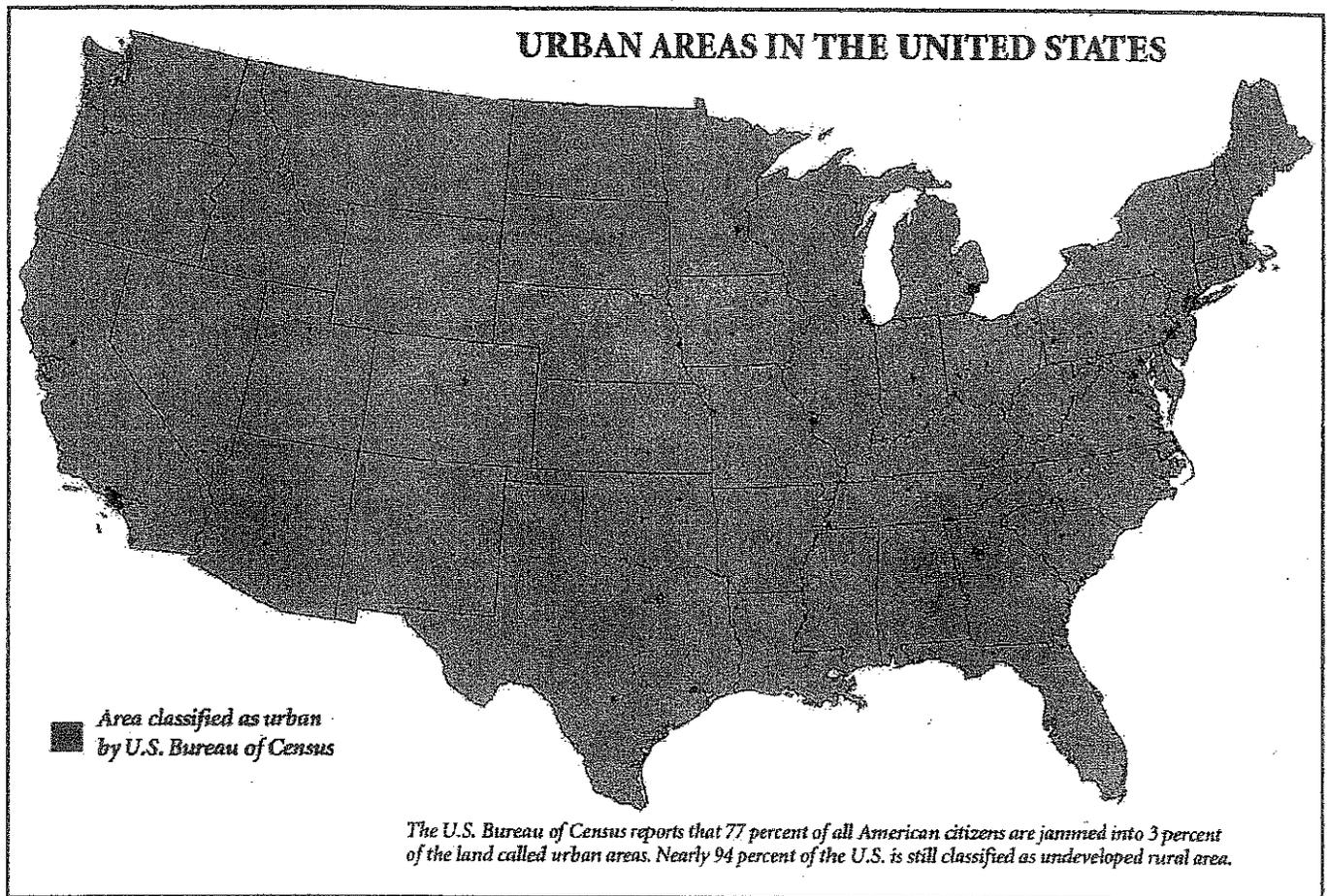
generates income for the NGO. Environmental fear has become a multibillion-dollar business that preys on unknowing urbanites.

Seventy-seven percent of all Americans live in about three percent of America's land area classed as urban by the U.S. Bureau of Census. The number only climbs to a little over six percent when all developed areas are included. Activist NGOs have found it easy to leverage legitimate environmental concerns into profitable campaigns that have marginal

property. James Madison and others even claimed that the entire purpose of government is to protect private property. They knew that private property is the foundation to liberty and wealth creation.

Hernando de Soto, a Peruvian citizen, completed a massive study for the World Bank in the early 2000s, the findings of which were published in "The Mystery of Capital." De Soto's team studied many nations for several years to determine why capitalism tri-

found that it takes 10 to 20 years and many payoffs to register property ownership in these countries. Hence, impoverished citizens do not register their ownership so their property rights are not legally established. De Soto calls this real but unregistered property "dead capital" because its equity is not available for investment. No equity means no capital to build wealth. Since citizens cannot build wealth, neither can the nation, condemned to perpetual poverty no



or negative environmental benefits.

#### **Why Property Rights Matter**

Because urbanites out-vote rural residents by a 3-to-1 margin, they can pass laws that harm rural residents in the belief we need more government land and open space. Yet, most environmental laws strip rural citizens of their ability to use proven management practices to provide goods and services to urbanites. As a result, groceries, appliances, lumber and other commodities cost more.

The higher cost of goods and services is not the most dangerous threat to America. Our founding fathers recognized the critical nature of private property rights as they were firsthand witnesses to the abuse of power that occurs when government controls private

property. He found that strong property rights are the basis of liberty and wealth creation—just as was claimed by America's founding fathers.

For instance, equity loans on personal homes provide the funding for 70 percent of all small business starts in the United States. Small businesses are the economic backbone of America. This would not be possible without strong property rights. In turn, unencumbered legal property rights allow banks the security needed to make the loan in a few days or weeks.

This is not the case in Third World nations. Because of arbitrary regulations and corresponding corruption, de Soto

matter how many socialist income-redistribution plans are imposed by the United Nations.

#### **Manipulating Property Value**

Loss of liberty to faceless bureaucrats who use a corrupt and arbitrary regulatory system to their own advantage is happening to more and more rural citizens in the United States.

Rural citizens are not alone. A growing number of communities are faced with arbitrary regulations under the umbrella of "smart growth" and "urban-growth boundaries." Depending on who draws the arbitrary boundary, low-value agricultural land can instantly be worth millions. Immediately across the urban-growth boundary, these arbitrary regulations prohibit development

and the value of the land remains low. Within 100 yards, one landowner reaps millions and another gets nothing. Arbitrary regulation—no matter how noble the intent—always breeds corruption.

Studies conducted by the Harvard Institute of Economic Research clearly show this enormous economic impact. Quarter-acre lots in cities with minimum smart-growth regulations average \$10,000 to \$40,000 per lot, while similar lots in cities imposing heavy smart-growth regulations average \$200,000 to \$600,000 per lot. There is a strong correlation between the time it takes to get a permit and the cost of the land, just as de Soto found in Third World nations.

Harvard economists Edward L. Glaeser and Joseph Gyourko, in their paper "The

where people can live where they choose and travel freely, to a Wildlands-dominated landscape where people live in designated population centers with limited travel allowed through highly restricted corridors. The Wildlands Project is the master plan for both the United Nations' Agenda 21 and Biodiversity Treaty. In classic socialist utopian idealism, Agenda 21 defines how every human being must live in order to save mother earth. The Wildlands Project represents a grandiose design to transform at least half the land area of the continental United States into an immense "eco-park" cleansed of modern industry and private property.

Wildlands Project coauthor Reed Noss explains their intent: "The collective needs of nonhuman species must take precedence over

defining where gaps exist between already protected areas and those that require protection. These gaps are huge in Midwestern and Eastern states where very little government land exists. Federal, state or local government already own over 40 percent of the land area in the United States; however, most of the federally owned land is in the West.

The only way to close these gaps is by taking private property through condemnation conservation easements or uncompensated regulations. In most cases, access to this land represents a rural family's livelihood and GA represents a direct threat to their way of life.

The second federal program implemented at the end of the Clinton administration is the U.S. Forest Service Roadless Area Conservation Rule (RA). RA established blanket nationwide prohibitions generally limiting timber harvest, road construction and reconstruction within 58.5 million acres of inventoried roadless areas on national forests and grasslands. The lives of thousands of people depend on these historically available resources for their living in forestry, livestock production and mining for critically needed minerals. This was one of the first major efforts to convert already restricted government lands into Wildlands status, and accelerated the process of extinguishing the use of private lands within these areas.

On July 14, 2003, the U.S. District Court for the District of Wyoming issued a permanent injunction and set aside the roadless rule. However, the U.S. Forest Service issued a new rule on May 5, 2005, that allows the roadless rule to be imposed with the permission of the governor of each state.

Already existing laws such as the ESA have made it easier for environmentalists to push their Wildlands agenda. By threatening landowners with species listings or habitat designations, they can force private property owners into signing conservation easements, or into giving away a large portion of their property to the government or to a land trust as mitigation in order to use just a small portion of their land.

### **Taking Liberty in Northwest**

The government owns 60 percent of Oregon and 42 percent of Washington, so the immediate focus in the Pacific Northwest has been to complete the conversion of these lands into Wildlands and target the private lands within these areas. The ESA has so far been the biggest tool for accomplishing this goal. The designation of the spotted owl gave the environmentalists the surrogate they needed. The spotted owl's "habitat" occupies everything

## **FOR ANYONE WHO DOUBTS THAT ENVIRONMENTALISTS ARE SERIOUS ABOUT DESTROYING PRIVATE PROPERTY IN AMERICA, REDISTRIBUTING THE WEALTH, AND REDUCING THE USE OF OUR NATURAL RESOURCES, THOSE DOUBTS SHOULD BE PUT TO REST. THEY ARE MORE THAN HALFWAY THERE.**

Impact of Zoning on Housing Affordability" (March 2002), emphasized that the entire increase was due to smart-growth regulations. These "feel-good" regulations represent a huge drag on future urban economy.

Little did I know when I prepared the map Sen. Hutchinson used on the Senate floor, that environmental operatives were already in key positions of our government, ready to implement the antiproperty rights directives of the United Nations Treaty on Biodiversity. Although the treaty did not pass the Senate, they were able to shift gears, developing the authority necessary to implement the Wildlands agenda under an administrative cloak that didn't require congressional approval. It has been just over 10 years since they actively began transforming America into a Wildlands. What is most frightening is how much they have accomplished in that short period.

For anyone who doubts that environmentalists are serious about destroying private property in America, redistributing the wealth, and reducing the use of our natural resources, those doubts should be put to rest. They are more than halfway there.

### **The Wildlands Project**

Under the Wildlands Project, the United States would be transformed from a land

the needs and desires of humans."

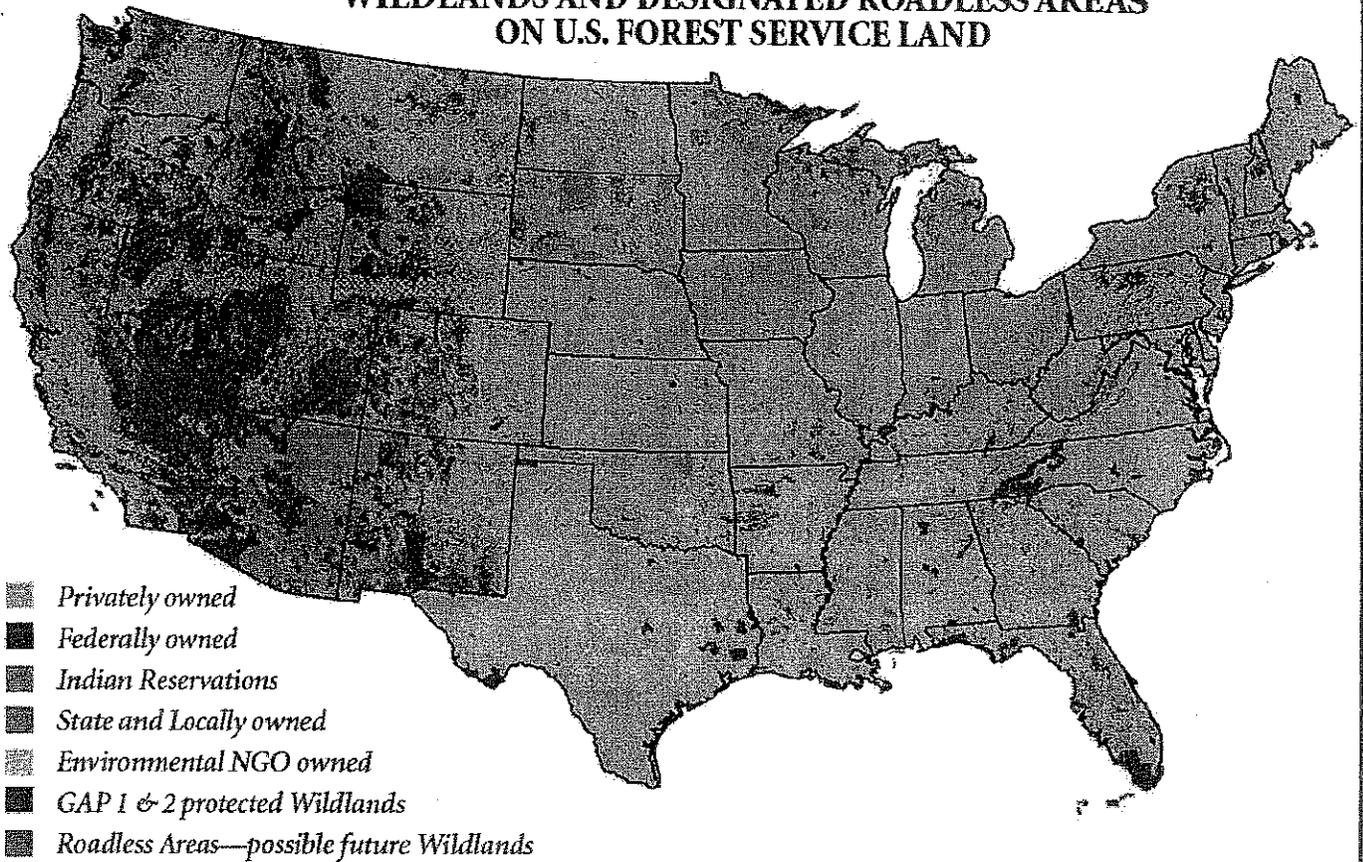
### **Federal Programs**

While many key laws like the Endangered Species Act (ESA), Clean Water Act and dozens of others that would facilitate implementation of the Wildlands agenda were already in place, environmentalists needed to identify areas that had no protection in order to begin converting land to conform to their agenda. The Clinton administration undertook two major programs with no congressional oversight during the 1990s to identify and begin targeting these areas. They were the Gap Analysis Program (GAP) and the Roadless Area Rule.

The GAP process starts by analyzing existing protected government land, then overlays geographical data of vegetation habitat, animal distribution and property ownership. Land ownership is further divided into stewardship classes: (1) is "fully protected" (such as wilderness areas); (2) is "mostly protected" (national parks and many wildlife refuges); (3) is "partially protected" (national landmarks and multiple use areas like U.S. Forest Service lands); and (4) is "no known land protection" (usually private land). Classes 1 and 2 are often combined.

Although GAP sounds innocent, even noble, it is designed for the sole purpose of

## AREAS IDENTIFIED AS GAP CLASSES 1 & 2 PROTECTED WILDLANDS AND DESIGNATED ROADLESS AREAS ON U.S. FOREST SERVICE LAND



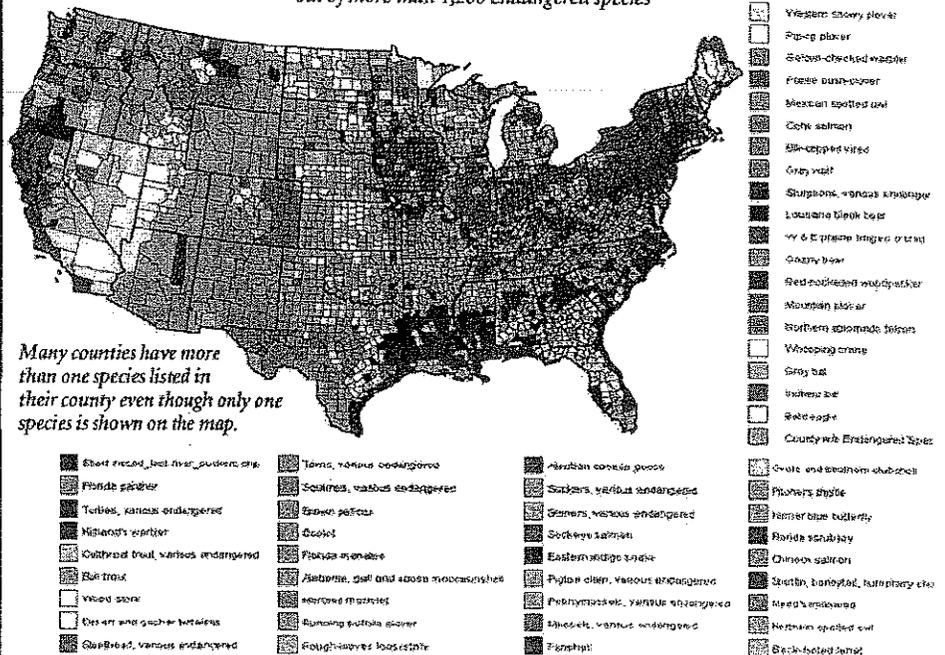
west of the Cascade mountain range's centerline, which includes large tracts of private property. The intention was never to save the bird, but to make ghost towns out of entire communities.

The federal government, State of Oregon and environmental NGOs collaborated to completely shut down agriculture in the Klamath Basin of south-central Oregon in 2001. Federal agents misrepresented the amount of water needed for endangered suckerfish in Klamath Lake, resulting in the loss of all irrigation water to farmers in the basin and turning farmland into dustbowls. The environmental NGOs fulfilled their mission.

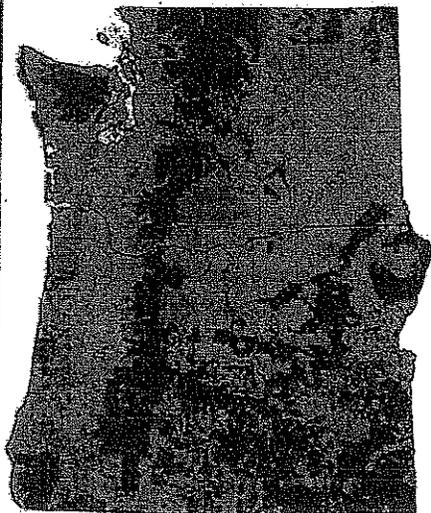
Even though their land essentially became worthless, the State of Oregon did nothing to help the farmers. Thousands of Klamath residents lost their jobs, and businesses that supported farming faced financial ruin. Later that summer, the National Academy of Sciences reviewed the data supporting the court decision and found "no clear evidence" that high lake levels benefited the fish or "convincing scientific justification" for not allowing the farmers to continue to use the

## ENDANGERED SPECIES BY COUNTY

*56 species or species groups  
out of more than 1,200 endangered species*



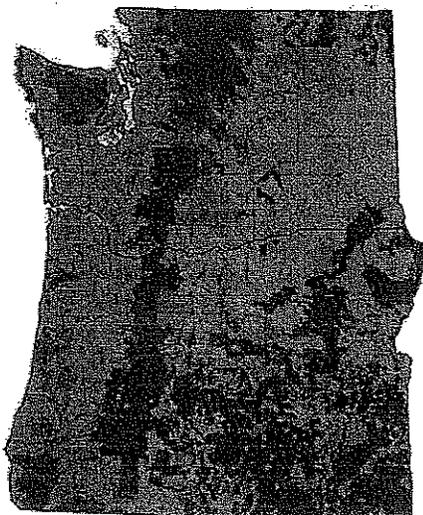
## LAND OWNERSHIP IN OREGON/WASHINGTON



Most people are unaware that 60 percent of Oregon and 42 percent of Washington are owned by the federal, state or local government.



## LAND CONTROL IN SPOTTED OWL HABITAT



The endangered spotted owl was used by environmental NGOs and wildlife biologists to shut down much of the logging in western Oregon and Washington even though it was later determined that the owl thrived in second-growth forests.

water for irrigation. In fact, evidence showed that the suckerfish seemed to do better when the farmers used the lake water for irrigation. In reality, an arbitrary ESA decision based on highly questionable science brought economic devastation to an entire region.

On the eastern side of the Cascade Mountain Range, the federal GAP analysis showed that large tracts of land were already protected or nearly protected, but there were still many ranchers, miners and foresters who used these lands and held legitimate property rights. A concerted effort was made through the Clinton administration to begin the transformation of this region through the Interior Columbia Basin Ecosystem Management Project in 1993.

The project attempted to develop cooperative management strategies between federal, state and local governments to control land use over the 64-million-acre Columbia Basin Ecosystem east of the Cascade mountains into Idaho, western Montana and northwest Wyoming. Citizens strongly opposed it and in 2003, after a 10-year study, only federal agencies and NGOs continued the program.

Individuals living within populated areas of the Northwest are also beginning to feel the effects of the Wildlands agenda to move urban growth into designated "human occupation zones." For example, in 1979 planners

drew an Urban Growth Boundary line around Portland, Ore., to control urban sprawl. Land values within the smart-growth boundary skyrocketed. Land values outside plummeted.

Smart growth causes severe economic hardship. In 1990, two out of three families could afford a home in the Portland area. That figure dove to one out of three by 2000. The problem became so bad that in 2004 the citizens of Oregon overwhelmingly passed Measure 37, requiring just compensation for landowners suffering from smart-growth regulations and other land-control restrictions.

### Taking Liberty in Southeast

Except for parts of Florida and the southern Appalachians, the Southeast generally has very little federal, state and local government land that activists can use to lobby for creating Wildlands. So, to speed the process up and help identify private land for Wildlands protection, Region 4 of the U.S. Environmental Protection Agency (EPA) and the University of Florida's GeoPlan Center conducted a GAP analysis called the Southeastern Ecological Framework Project in 1999-2000.

The project prioritized ecological areas in the Southeast that need protection. Because GAP gives such a high priority to ecosystems over people, more than 60 percent of the

Southeast—nearly all rural areas and private land—was identified as having a high protection priority.

Florida has already undertaken a number of statewide initiatives to implement the Wildlands Project under a variety of names of which the Greenways Planning Project and Save Our Rivers Program are the largest.

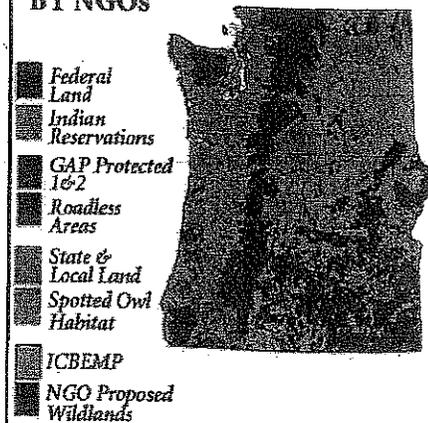
During the 1990s these programs were under the umbrella of the Preservation 2000 Act, changed by the Florida Legislature in 2000 to Florida Forever. The goal was to place as much as 80 percent of Florida into Wildlands reserves and corridors, which they call hubs and linkages.

By 1999, Florida had purchased 1.3 million acres through the Save Our Rivers Program. After 2000, the same program targeted new lands for acquisition by "green-lining" a huge area of land. Green-lining typically locks the land value at rock-bottom prices, denying the landowner any chance for receiving highest and best value for his land, thereby skimming the landowner's equity for the government.

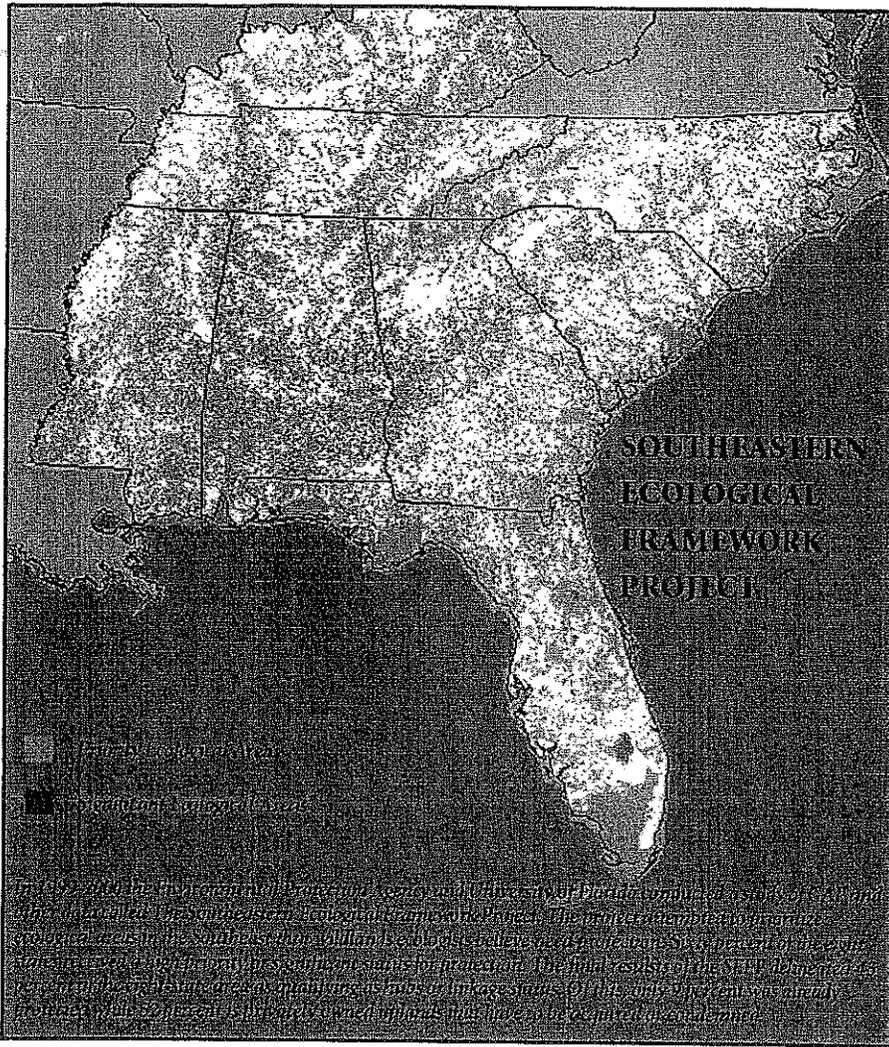
By 2005, Florida had purchased another 800,000 acres throughout the state increasing state ownership from 29 to 37 percent.

The state used conservation easements to acquire development rights on an additional 315,000 acres at about one-third the cost of

## WILDLANDS PROPOSALS BY NGOS



During the Clinton administration all land east of the Cascade Mountain Range of Oregon and Washington was classified as the Interior Columbia Basin Ecosystem Management Program (ICBEMP) ostensibly to develop ecosystem management strategies that would protect the core values of nature. However, other places where this approach has been used, such as the Columbia Gorge National Scenic Area or the Adirondack State Park in upstate New York, reveal that all property rights come under the control of government bureaucracies. The Defenders of Wildlife have proposed additional areas to be included as GAP 1&2 Wildlands in Oregon.



what the state would have had to pay to buy the land outright. The landowners often sell the easement for quick cash, figuring the land will never have much future value. Or the landowner sells the easement because regulations have made it increasingly difficult to make a living on or to otherwise use the land.

Florida is cannibalizing its private land in the name of protecting nature. It is not the only state in the East that is doing so. Delaware, Maryland, New Jersey, Rhode Island and New York are also following closely in Florida's footsteps. These states are also identifying greenway hubs and linkages for the Wildlands Project.

### Taking Liberty

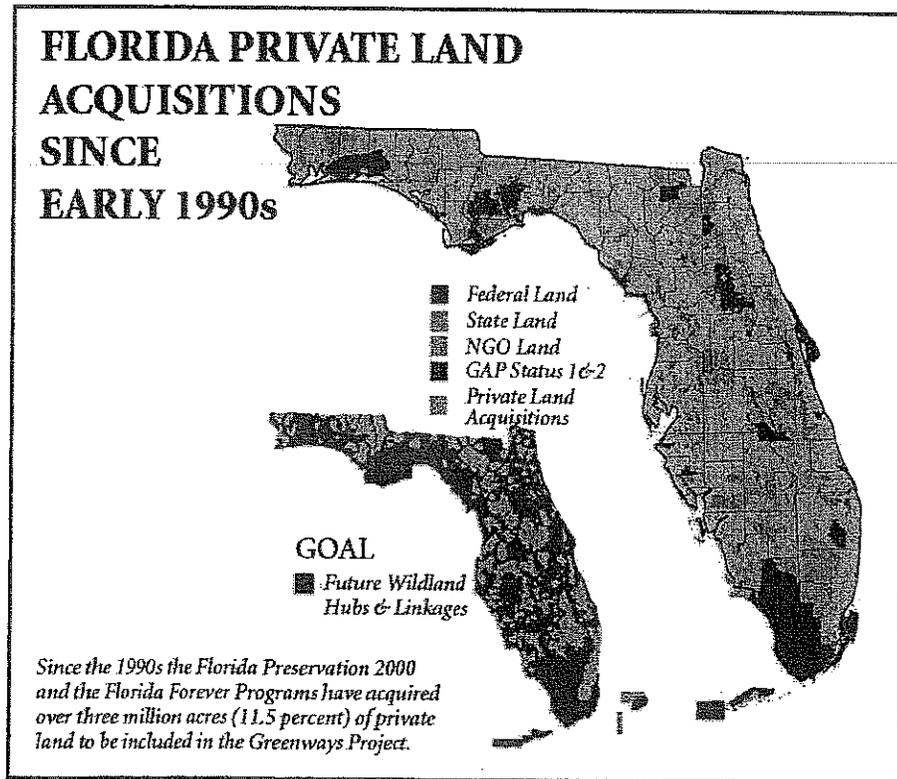
Local communities will always need regulations that focus on true harm, nuisance and public health. A healthy economy is required to protect the environment. If the local, state or U.S. economy declines because arbitrary regulations limit or remove private property from production, it is highly probable that the very efforts to protect the environment will eventually cause its decline.

The end result will not be the eco-utopia the greens envision. It will be a land owned by government and elite land trusts. In truth, the Wildlands agenda is not about whether America's land and resources will be used for human benefit; it is about who will own them. Private property rights are as important to the environment as they are to people. ■

*Dr. Michael Coffman is president of Environmental Perspectives, Inc., in Bangor, Maine. He has a Ph.D. in forest sciences and has taught and conducted research in ecosystem classification, global warming and acid rain for 25 years before founding Environmental Perspectives. He can be reached at 207-945-9878.*

### Taking Liberty on the Web!

"Taking Liberty" is a sophisticated Web-based animated program with narrations and stunning visuals showing the progress environmentalists have made and what programs they are using in their efforts to implement the radical Wildlands agenda. It is funded and produced by the American Land Foundation in Taylor, Texas, and Stewards of the Range in Meridian, Idaho. The program can be viewed at <[www.takingliberty.us](http://www.takingliberty.us)>. CDs of the program can also be purchased on the Web site or by calling 1-800-452-6389. They are \$15 each; 4-9 for \$12 each; and 10 or more for \$10 each. The maps shown in this article (a few of many) and in the program are also available for purchase.



## Forum looks at expansion of Waterton Park

A science form on expanding Waterton-Glacier International Peace Park into British Columbia will be from 7 to 9 p.m.

Monday, March 12, at Grouse Mountain Lodge in Whitefish.

A \$10 donation at the door is suggested. A cash bar will be available. Seating is limited. Call 837-0783 for more information.

During the forum three leading researchers will give presentations on transboundary grizzly bear populations, aquatics, fisheries, ungulates and predator wildlife species with a focus on recent scientific discoveries and insights made in the vicinity of Waterton-Glacier International Peace Park.

Richard Hauer, director of the recently formed Montana Institute on Ecosystems of the University of Montana, will speak about the biological richness of the transboundary Flathead River (also known as the North Fork Flathead River), and make the case that the Flathead River system is one of the most ecologically intact rivers in the Lower 48.

Michael Proctor is the principal investigator for the Trans-Border Grizzly Bear Project based in British Columbia. He recently published a groundbreaking study published in

## Flathead River system focus of one speaker at Whitefish forum

is a Flathead Valley-based conservation organization that has worked with other conservation groups to help protect the North Fork Flathead, Glacier Park and Flathead Lake from potential harm from upstream open-pit coal mining.

### FORUM/From A4

Wildlife Monographs that documents the challenges facing grizzly bears in the transboundary region of the Rocky Mountains between Montana and British Columbia.

John Weaver is senior conservation scientist for the Wildlife Conservation Society. He has published several monographs on the abundance and distribution of ungulates and carnivores in the transboundary Flathead Region and recently released "Conservation Value of Roadless Areas for Vulnerable Fish and Wildlife Species in the Crown of the Continent Ecosystem."

Sponsors of the forum include Flathead Valley-based Headwaters Montana, Wildsight, National Parks Conservation Association, Canadian Parks and Wilderness Society, Yellowstone to Yukon Conservation Initiative and Sierra Club, B.C. Headwaters Montana.

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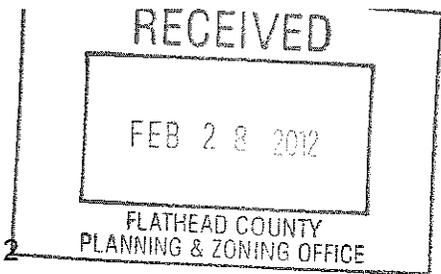
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weekly in front of our  
noses. The parallels  
are readily available.*

FEB 28 2012

Joan Slaybaugh  
230 Antelope Trail  
Whitefish, MT. 59937

2-24-12



Flathead County Planning Board:

I would like this input about property rights submitted for the workshop Feb. 29.

In researching property rights to find appropriate material to submit I came across an article about a county in Idaho that has established a Property Rights Council to provide a strong voice for protection and defense of the property owners. In recognizing the threat centralized control of development poses to private property, this council set out to develop a strategy to protect constituents' property rights and the right to control their own property.

Scott Bauer, county attorney for Bonner County, Idaho explained their approach in defining property rights this way: " Practically speaking for every property rights council case/file we look at we translate the expression "property right" with the expression "control right". We take a property right to be the right to control some asset, resource, or physical thing. We analyze each case in terms of whether the proposal advances public control or private control."

"Property controlled by a public entity is property that is controlled by an entity that utilizes a measure of socially sanctioned coercion to control the private assets in it's possession and one that takes those assets from private individuals without their full/complete consent."

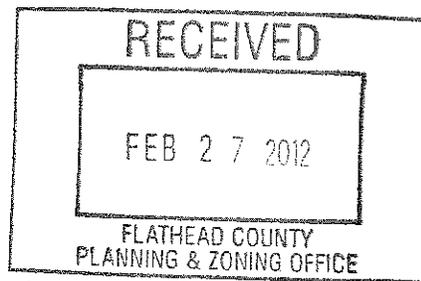
"Applying this to land use controls, new proposed zoning socializes preexisting, privately controlled real property and places it coercively into public control. Using this framework the Property Rights Council looks for the mix of public/private control over an asset or assets and promotes more private control and less public."

I would like to see you incorporate in our Growth Policy regarding property rights the idea of looking at how control of assets in one's property is affected when regulations are imposed that may transfer control of those assets from the property owner, or restrict and reduce the value of those assets to the property owner. I like the idea above of the "control right," taking into account whether the gov't action will cause the owner to loose control of their assets related to the property. Is there a measure of coercion involved where the property owner does not consent to having the assets transferred to public control? The property owner should be favored in having the control of his own assets over public control.

Private property ownership and control by individuals is under attack across our nation. Rights are being violated as restrictions are put on homeowners ability to control their property and assets to make simple improvements and decisions about their own lives and possessions. Property rights, meaning the control of the property by the owner is fast disappearing. Please protect the Flathead from this national trend.

Please consider the idea of "control rights" and the need to protect the private right over the public. Thank you, Joan Slaybaugh

Russ Miller  
510 Solberg Drive  
Kalispell, MT 59901



2/25/12

Subject: Property rights per the Flathead County Growth Policy

The growth policy indeed makes an effort to show some preference toward the concept of property rights as defined in the history and intent of the common law that formed the basic foundation of property rights in the United States. The problem with property rights as stated in the growth policy is that property rights are stated as being important and then they are surrounded by stipulating arguments which imply that property rights are either restricted by state law, local ordinances, or the expectations of the community as a whole should be satisfied when possible. This puts the basic philosophy of property rights hostage to a long list of phrases, which are usually begin with the words "except as provided by . . ." . It should also be noted that the growth policy does not overtly mention that the zoning regulations and other local land use ordinances must follow the intent of property rights as implied in the growth policy. Since the growth policy "has no regulatory authority", it appears very subjective as to whether zoning regulations are to follow the intent of the growth policy or the individual desires of those in charge of creating zoning policy, possibly with true regard for provisions in the growth policy. The growth policy has the dubious characteristic of being contradictory to and easily overridden by the whims of the few, while at the same time trying to satisfy and placate the desires of the many.

When the circumstances mentioned above are combined with the philosophy of property rights, property rights become arbitrary, confusing, sometimes overregulated, and ultimately frustrating for the property owner as well as those on the planning board.

The growth policy states that ". . . a delicate balance must be achieved to comply with the requirements of state law and also respect the custom and culture of freedom and private property rights in Flathead County."

So, that being said,

Property rights should always be viewed in the context of history, since history has repeatedly shown that the loss of property rights for the People has always resulted in general loss of liberties, economies, and, ultimately, in the downfall of each civilization or country that has severely diluted or done away with property rights. This is adequately stated by the renowned economist, Dr. Ludwig von Mises.

If history could prove and teach us anything, it would be the private ownership of the means of production as a necessary requisite of civilization and material well-being. All civilizations have up to now been based on private property. Only nations committed to the principle of private property have risen above penury and produced science, art, and literature. There is no experience to show that any other social system

could provide mankind with any of the achievements of civilization. (*Socialism* [New Haven, Conn.: Yale University Press, 1951], p. 583.)

Property rights should be stated with the intent that they are inalienable rights, guaranteeing the right to acquire, use, and transfer property subject to as few laws and regulations as possible so long as one does not impair others in the execution of those rights.

It is obvious that there are many laws in place to protect the general welfare as a whole, such as clean water and clean air acts. It should also be obvious that a country runs the risk of losing itself if it does not carefully weigh property rights against the needs and wants of society. Only true and proven needs for protection from harm to individuals should be the first line of restriction on property rights.

Prior to the distortions of the meaning of the "general welfare" clause in the 1930's, the U.S. Supreme Court had declared:

No man would become a member of a community in which he could not enjoy the fruits of his honest labor and industry. The preservation of property, then, is a primary object of the social compact . . . . The legislature, therefore, had no authority to make an act divesting one citizen of his freehold, and vesting it in another, without a just compensation. It is inconsistent with the principles of reason, justice, and moral rectitude; it is incompatible with the comfort, peace, and happiness of mankind; it is contrary to the principles of social alliance in every free government; and lastly, IT IS CONTRARY TO THE LETTER AND SPIRIT OF THE CONSTITUTION. (2 Dall 304, 310 [PA 1795]; emphasis added.)

The case which spawned this ruling had to do with an attempt to expropriate property in order to transfer it to other citizens. But the concept is analogous to what happens when property rights are eroded or taken away by either individuals or government entities.

Without a firm resolution that property rights in the Flathead County Growth Policy should be protected and subject only to statutes that are clearly needed and just, then there is no boundary that will not be torn down or ignored by those who would act ignorantly and selfishly, or those who are intent on stripping liberty from the People of America. The U.S. Constitution was intended to create a republic, ruled by law which would guarantee equal protection to all, but not equal attainment of all things.; only the protected right to the opportunity to prosper is promised. Those who own property have always been on the leading edge of creating both economies and innovations, driven by the reality of being able to enjoy the fruits of their labor. Anything that does not strive to protect this American dream, which was made reality by the Constitution, should be secondary to property rights. Laws and regulations which are necessary

to protect others from harm should be the only impediments to an absolute upholding of property rights as intended in the Constitution. The U.S. Constitution is intended to be the supreme law of the United States, and all laws which are not in accordance with the provisions and intent of the Constitution are null and void. The separate powers of governments, individually or in the whole, are not intended to be supreme in their dictates unless they adhere strictly to the Constitution. It logically follows that the states uniting as one country under this Constitution should follow the same philosophy and intents that were laid out by the founders in their writing of the Constitution. Without property rights which are as unencumbered as possible, there will eventually be no rights save those that are handed down by dictate and changed at the will of a few who are in power.

The Planning Board does not have an easy task. It must try to satisfy the wants of as many of the People as possible. But it is the rights and liberties of the People that are most important, and if the rights of the People are not protected and nurtured, then those rights will surely wither and the wants of the people will wither also. The key phrase is "inalienable rights", not "inalienable wants". The Montana Constitution has its own bill of rights, but most of those rights end with the phrase "except as provided by law". This gives temptation to those who would do away with all rights not specifically granted by government at any given time. The growth plan should provide direction, efficient growth, economy, and so on. At the same time it must protect rights or risk losing all of the benefits that liberty has yielded in the United States.

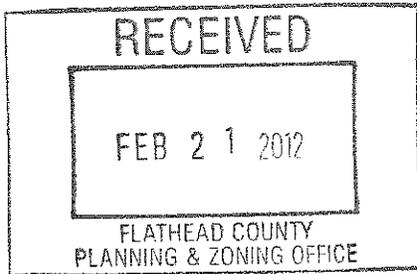


At the Feb 15 public hearing on the Growth Policy, the board asked for material to be submitted to further their drafting process on Part 4 Property Rights before their workshop on Feb 29.

Please include this material for their workshop packet. Thank you

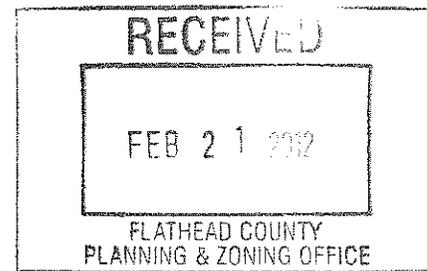
Dolbie Biolo

471-8907



Debbie Biolo  
1985 Hodgson Rd.  
Whitefish, MT.59937  
406-471-8907

2-21-2012



Flathead County Planning Board

I appreciate the opportunity to have spoken with you at the Feb. 15 hearing on the Growth Policy Draft.

At that hearing you invited those of us with concerns to contribute material about property rights to further your efforts to draft Part 4. At the hearing I asked you where the attitudes and ideology and language came from and if the communal, collective slant over individual rights of property owners is what we want in our document for the Flathead Valley.

I exchanged phone numbers with a couple I met at the hearing who told me they had some material they would like to share with me that I found very enlightening and would like to share it with you.

It is a newsletter published by the American Policy Center entitled Sustainable Development. In the text it describes the process by which local elected officials are losing control over their own community's regulatory process. In it it describes the process that was followed to develop our Growth Policy. To quote "Civic leaders organize community meetings run by "facilitators" as they outline a "vision" for the town enforced by "consensus."

Free trade, social justice, consensus, global truth, partnerships, preservation, stakeholders, land use, environmental protection, visioning, diversity, open space, heritage, comprehensive planning, critical thinking and community service are all part of the new language." The newsletter points out how "the language is being manipulated to quietly implement a very destructive policy, Sustainable Development." The newsletter describes Sustainable Development as "a process by which America is being reorganized around a central principle of state collectivism using the environment as bait." The newsletter warns of "accepting the perception of Sustainable Development as simply good environmental stewardship is a serious and dangerous mistake."

It points out that "private property is incompatible with the collectivist premise of Sustainable Development." It states that "the sustainablist system is based on the principle that individuals must give up their needs for the common good of the community." I continue to quote the newsletter because there in print is exactly what I was trying to express to you when I likened to "community expectations" regarding property rights in our Growth Policy with a participant in the public process regulating his neighbors land because he likes to see green grass swaying and horses tails swishing when he drives to work from Whitefish to Kalispell. To quote further "under the Sustainable Development system private property is an evil that is used simply to create

wealth for a few. So too, is business ownership. Property and businesses are to be kept in the name of the owner, keeping them responsible for taxes and expenses, however control is in the hands of the community” through regulations and restrictions such as we are debating now with our Growth Policy revision. Quoting further the newsletter states, “under Sustainable Development there can be no concern over individual rights - as we must all sacrifice for the sake of the environment. Individual needs and desires are to be conformed to the views and dictate of social planners. “ “The politically based environmental movement provides Sustainable Development camouflage as they work to transform the American systems of government, justice and economics. “

“Americans ask how dangerous policies can suddenly turn up in state and local governments, all seemingly uniform to those in other communities across the nation. “ Sustainable Development policies are being implemented across the nation by a non profit private foundation “ICLEI- Local Governments for Sustainability.” “As these policies are implemented, locally-elected officials are actually losing power and decision making ability in their own communities.” Most decisions are being made by non-elected councils and planners armed with truckloads of federal regulations, guidelines, grant money, software, access to a network of green experts, newsletters, conferences and workshops, toolkits, templates, case studies, fact sheets, policy and practice manuals, and training workshops for planning staff.

PLEASE TAKE STOCK OF YOUR DOCUMENT to ensure that the ideas and attitudes that you choose to incorporate into our Growth Policy are not being fed to you from elsewhere, and that you make rules and regulations that are just and fair for Flathead County individuals and businesses.

For information or copies, contact:

American Policy Center  
70 Main St. Ste 23  
Warrenton, VA 20186  
540-341-8911  
[www.americanpolicy.org](http://www.americanpolicy.org)

Thank you for allowing the public to participate, it is appreciated. This newsletter made an awful lot of sense to me, and I was able to draw local parallels to every thing it spoke about.

Thank you, Debbie Biolo



## Allison Mouch

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**From:** Lorch, Steve [slorch@mt.gov]  
**Sent:** Thursday, February 16, 2012 2:46 PM  
**To:** Allison Mouch  
**Cc:** Frye, Steve; BJ Grieve  
**Subject:** Flathead County Growth Policy - DNRC input  
**Attachments:** Flathead County Planning Growth Policy Comments and proposed language 2-16-2012.doc

Hi Allison,

I am attaching a copy of the Flathead County Growth Policy input that I provided on behalf of Montana DNRC at the public hearing during last evening's Flathead County Planning Board meeting.

I have added in red text some language as requested of me during board discussion that will address my concerns and help clarify DNRC's role and responsibilities with respect to management of recreational use on State Trust Lands.

Thank you for your assistance in facilitating this discussion. Please let me know if there is anything else I can do toward affecting the desired clarifications.

Sincerely,

Steve



*Steve Lorch, a.i.c.p.  
Community Planner  
MT DNRC Northwestern Land Office  
655 Timberwolf Parkway, Suite 1  
Kalispell, MT 59901-1215  
ph: 406-751-2262  
cell: 406-250-1096  
e-mail [slorch@mt.gov](mailto:slorch@mt.gov)*

Flathead County Planning Board.  
DNRC comments to Draft Growth Policy  
2-15-2012  
Steve Lorch

From Chapter 2, Land Uses:

1. **(DRAFT Page 5)** Policy 1.3 –*Attempt to develop cooperative agreements with the Montana Department of Natural Resources and Conservation and Department of Fish, Wildlife and Parks on issues including, but not limited to, land use conversion, adjacent land development, land use planning documents, public hearings, trust land uses, public access for recreation, land acquisition and state exchanges of trust land with private and federal entities.*
  - a. Lumping FWP in here will mislead people into thinking that they are generally involved in the management of Trust Land. Suggest a separate policy or sentence within this policy to list FWP and the specific issues that the county would like to work with them on (e.g. public access for recreation, recreation programs, fishing access sites, etc...).
  - b. The FWP agency name does not include the word “Department” – it is just “MT FWP”.
  
2. **(DRAFT page 14)** 3<sup>rd</sup> paragraph, PART 1: Federal, State and Tribal Lands – *The State of Montana manages a substantial acreage within Flathead County. Lands managed by the DNRC Trust Lands Management System account for approximately 130,953 acres of Flathead County.*
  - a. Striking the word “system” and replacing it with the word “division” would be a more accurate moniker.

Parks and Recreation Chapter

1. **(DRAFT Page 54)** Part 3, Table 4.2 showing the *13,000 acres of Whitefish Trust Lands as a “recreation area” and “managed by FWP”.*
  - a. This would perpetuate an ongoing misunderstanding and I respectfully request that this line be removed from the table as it is not a “State Recreation Area”. Also, FWP does not manage recreation on these lands. They do have licenses and lease in some cases such as at formal Fishing Access Sites (FAS) and certain state parks that occupy Trust Land but other than those their role is Law Enforcement only.

As a follow-up to the 2/15/2012 Planning Board public hearing, I would request that the line item pertaining to Whitefish State Trust Lands within table 4.1 be removed. As requested during Planning Board discussion, I offer the following language and suggest it may fit well in Chapter 4, Part 3 following Table 4.1:

*Stillwater State Forest and other scattered State Trust lands managed by MT Department of Natural Resources and Conservation (DNRC) for timber production in Flathead County have also historically been used for hunting, fishing and other individual outdoors-oriented general recreational use. DNRC is responding to manage steadily increasing interest in commercial recreational use and more organized and developed recreational uses, especially in the urban interface lands such as those near Whitefish (e.g., groomed snowmobile and ski trails, commercial horseback riding, backcountry skiing access, dog mushing, improved hiking/biking trail system and various associated guiding services).*

Chapter 8, Natural Resources

1. **(DRAFT Page 145)** Part 3, Land Resource; Forestry (last paragraph) – *The State of Montana manages approximately 130,953 acres of forested trust lands in Flathead County. The lands are managed by the Montana Department of Natural Resources Conservation Trust Lands Management System. ...*
  - a. Again, strike the word “system” and replacing it with the word “division”.

## Allison Mouch

---

**From:** BJ Grieve  
**Sent:** Thursday, February 16, 2012 11:01 AM  
**To:** 'Zura Crowder'  
**Cc:** Allison Mouch  
**Subject:** RE: Growth Policy & Whitefish Transition

Thanks for your organization's input Mr. Crowder, I will forward it to Allison who compiles written comments received between workshops.

Allison compiles these then distributes them to the Board at the workshop but prior to discussion so they may adequately consider them as part of their discussion. As you know, the next workshop was scheduled last night for February 29, 2012.

Again, thanks for your participation!

BJ Grieve, AICP<sup>®</sup>, CFM<sup>®</sup>  
Planning Director  
Flathead County Planning & Zoning  
1035 First Avenue West  
Kalispell, MT 59901-5607  
Phone: 406.751.8200  
Fax: 406.751.8210

---

**From:** Zura Crowder [<mailto:americandreammt@yahoo.com>]  
**Sent:** Thursday, February 16, 2012 10:26 AM  
**To:** BJ Grieve  
**Subject:** Re: Growth Policy & Whitefish Transition

BJ...We appreciate the fact that we as well as others that gave testimony before the Planning Board are being encouraged to submit our recommendations for changes to Part 4, the Property Rights section in the Growth Policy. Because of American Dream Montana's confidence in the experience and capabilities of most of the present members of the Board, we have decided that we would prefer to review and comment on the Board's recommendations after their deliberations on this matter. We do however believe that any meaningful Property Rights provision must at a minimum accomplish two main goals":

1. Make it clear that Private Property Rights are not "communal" but rather , protected "individual" Rights.
2. Acknowledge that the Montana Supreme Court has determined Growth Policy's and their Amendments to be Regulatory.

Thanks for your consideration BJ.....Russ Crowder...Chairman, ADM.

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**From:** BJ Grieve <[bjgrieve@flathead.mt.gov](mailto:bjgrieve@flathead.mt.gov)>  
**To:** BJ Grieve <[bjgrieve@flathead.mt.gov](mailto:bjgrieve@flathead.mt.gov)>  
**Sent:** Tuesday, December 6, 2011 12:16 PM  
**Subject:** Growth Policy & Whitefish Transition

Hi everyone, two brief pieces of planning news to share...

**Growth Policy Update:** The Planning Board is continuing work on updating the county-wide Flathead County Growth Policy. The attached press release slated for tomorrow is regarding the next “checkpoint” workshop to be held Dec. 14, 2011 at 6:00 pm in the Earl Bennett Building 2<sup>nd</sup> Floor Conference Room. All the work they’ve been doing continues to be available at the link below...

[http://flathead.mt.gov/planning\\_zoning/growth\\_resolution2015a.php](http://flathead.mt.gov/planning_zoning/growth_resolution2015a.php)

**Rural Whitefish Jurisdiction Transition:** This morning the Commissioners signed a “Notice of Public Hearing” regarding a proposed “Rural Whitefish Interim Zoning District.” The hearing will be held January 12, 2012 at 10:00 a.m. in the Commissioner’s Chambers in the Old Courthouse Building. A copy of the notice is attached to this email. It outlines the reason for the zoning, the general character of the regulations and the boundary of the zoning district, as well as the date, time and place for the public hearing. It also gives a link to the map showing the locations of the individual zoning classifications. That link is provided below for your convenience...

[http://flathead.mt.gov/planning\\_zoning/RuralWhitefishInterimZoningDistrict.php](http://flathead.mt.gov/planning_zoning/RuralWhitefishInterimZoningDistrict.php)

As always, please call or reply with questions, comments, etc. or with suggestions to improve the clarity or “user-friendliness” of the information we’re providing.

BJ Grieve, AICP<sup>®</sup>, CFM<sup>®</sup>  
Planning Director  
Flathead County Planning & Zoning  
1035 First Avenue West  
Kalispell, MT 59901-5607  
Phone: 406.751.8200  
Fax: 406.751.8210

**PUBLIC COMMENT**

Received since January 11<sup>th</sup>, 2012 Planning Board meeting

# KALISPELL

Chamber of Commerce

Providing Economic, Community, and Workforce Development Services

www.kalispellchamber.com

February 15, 2012

Flathead County Planning Commission  
1035 First Avenue West  
Kalispell, MT 59901



Re: Flathead County Growth Policy Public Hearing Feb 15, 2012

Ladies and Gentlemen:

On behalf of our 650 members, I would like to offer comments on the latest draft documents for the Flathead County Growth Policy.

#### General Comments:

We appreciate the effort of the Commission and its staff to update this document given the dramatic shift in our economy and community in the since the last update. From 2007 to 2010, more than 5,270 private jobs were lost in Flathead County, with only 416 gained. Most employment losses were in manufacturing and construction, with wage losses totaling \$104 million. The Flathead economy is improving – but too slowly, weakly, and insufficiently to put our region back to work.

Nevertheless, there are signs that the recovery has started. Hilton Homewood Suites will begin construction of a 100 room hotel this spring. Kalispell Regional Medical Center is underway with a \$42 million expansion. Flathead Valley Community College will break ground on a \$5 million nursing and health sciences building this year. Allegiant Air has announced direct service to the San Francisco Bay Area. On the policy agenda, the State Legislature's work on workman's compensation reform and the reduction of the business equipment tax will help improve our competitiveness and the investment environment in Montana. Locally, the Kalispell City Council started this year with a repeal of transportation impact fees, making a strong statement that it will take the steps necessary to re-energize the construction economy and grow employment.

#### Specific Comments:

Part 2: Employment, Page 61. Consider revising the last sentence of this paragraph which reads, "Only the government and the health care and social assistance sectors have continued to experience modest gains in employment numbers during the economic recession". More current, post-Stimulus, data indicates that government employment has declined because of reduced tax revenues. In research presented by Dr. Brad Eldredge of Flathead Valley Community College on January 25, the data showed declines in public sector employment between 3Q2010 and 3Q2012. The largest employment gains during this same period were in the Hospitality and Accommodations

industry with a net gain of 486 jobs in Flathead County. These gains can be attributed to the steady increase of the tourism industry in Flathead County and to the growing tourism trade with Canada.

Part 2: Employment, Page 66. Regarding Figure 5.6, once again more current data will give a different look here.

Part 4: Facilities and Infrastructure, Page 75. The edits made since the last version have improved the document. However, because of the high cost of facilities and infrastructure and the long lead-time needed to plan properly for these improvements, this section deserves a much higher focus in this document and from the Commission. These facilities deserve special attention:

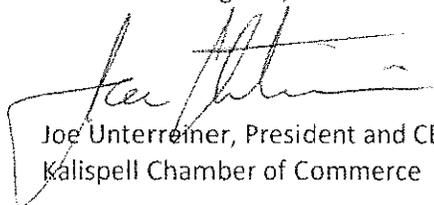
County Fairgrounds. I cannot find a mention of the County Fairgrounds anywhere in this document. This is the County's major public events facility. Maintenance on the Fairgrounds has been deferred for so long that if something is not done the facility may become totally obsolete. Tourism and hospitality are now listed as the County's largest basic industry category and the source of its largest job growth and offer new meetings and convention potential. These facilities deserve an investment and operating plan to make them a sustainable asset for our economy and community.

Glacier Park Airport. The recent Allegiant Air announcement is a nice success for commercial air service in the Flathead. Expansion of commercial air service to better serve business travelers and visitors will improve our community competitiveness and accessibility.

Rail Service. Rail service is an important part of our commercial and visitor infrastructure. Planning for rail-served business parks like the one planned for Kalispell will benefit our economy.

The Kalispell Chamber of Commerce appreciates the opportunity to be involved in the Flathead County Growth Policy and is ready to support your economic development planning in any way possible.

With Warm Regards,



Joe Unterreiner, President and CEO  
Kalispell Chamber of Commerce

Enclosure: Kalispell Business Agenda 2012



FEB 15 2012

Providing Economic, Community, and Workforce Development Services

[www.kalispellchamber.com](http://www.kalispellchamber.com)

## Chamber Unveils 2012 Agenda

*The Kalispell economy is improving - but too slowly, weakly, and insufficiently to put our region back to work. In 2012, the Kalispell Chamber's policy agenda will focus on action that will accelerate economic expansion, job creation, and competitiveness in the global economy. Our agenda will focus on six areas:*

**Expand Trade and Tourism.** With Kalispell hotel occupancies up seven percent in 2011, tourism is a bright spot in our regional economy and the largest job creator over the past year. The Chamber will launch the second year of a 5-year, \$3.0 million campaign to promote Kalispell as a premier visitor and meeting destination. Expansion of trade and visitation with Canada, which contains a market of 1.5 million people just north of the border, is also high on the Chamber's jobs agenda.

**Advance Pro-growth Legislation and Regulatory Reform.** In Montana's 62<sup>nd</sup> Legislative Session, the Legislature achieved workman's compensation reform resulting in a 20 percent average state-wide decrease in rates and also a reduction of the business equipment tax. However, that 20 percent decrease only moved Montana from the worst to the fifth worst rates in the nation, so there is still much work to do. Locally, the City Council started this year with a repeal of transportation impact fees, making a strong statement that it will take the steps necessary to re-energize the construction economy and grow employment. The Chamber will push to eliminate overreaching regulations that drive up the costs of job creators and make it harder to hire new employees and invest in our community.

**Drive Innovation Agenda.** Our area features innovation companies in energy, semiconductor equipment manufacturing, small arms manufacturing, unmanned aerial vehicles, and much more. Our innovation agenda requires advanced capabilities at our community college and a strong K-12 education system. The Chamber will support these high growth industries through advocacy and Business Expansion and Retention resources. The Chamber will also make a priority of its work with second-stage businesses – those with 10-99 employees and \$1 million+ in sales. This group of Montana businesses has an outsized impact on job creation because they have 39 percent of the jobs in the state while comprising just eight percent of the business establishments.

**Build Transportation and Infrastructure.** As we enter 2012, Allegiant Air has just announced non-stop service to the San Francisco Bay Area and work is well underway for the Hutton Ranch Connector roadway. The Chamber will press for the completion of the Kalispell Alternative Route and for the expansion of the commercial air service network. Favorable renewal of surface transportation funding legislation that expires in March and investment in broadband infrastructure are also top Chamber priorities.

**Develop our Resources Responsibly.** The recent announcement of a power purchase agreement between FH Stoltze Land and Lumber Company and Flathead Electric Cooperative for a 2.5 megawatt cogeneration facility is an encouraging sign for the development of a Northwest Montana renewable energy industry based on woody-biomass. The Chamber will continue its call for responsible development of our natural resources to create good paying jobs and tax revenue for schools and government services.

**Increase Member Value.** The Chamber will create new benefits that will add value and drive traffic to our members. The Chamber will add a mobile web application to the Kalispell Chamber and the Convention and Visitor Bureau web sites which will result new business for members.

## Allison Mouch

---

**From:** Allison Mouch  
**Sent:** Wednesday, February 15, 2012 1:32 PM  
**To:** 'Joe Unterreiner'  
**Subject:** RE: Flathead Co Growth Policy Public Hearing

FEB 15 2012

Hi Joe,

I've received your comments and will make sure each member of the Board has a copy for this tonight's meeting. Thanks again for your continued participation and support throughout this update process – it is greatly appreciated!

Allison Mouch, AICP®  
Planner II

Flathead County Planning and Zoning  
1035 First Avenue West  
Kalispell, MT 59901  
Voice: (406) 751-8200  
Fax: (406) 751-8210  
[http://flathead.mt.gov/planning\\_zoning/](http://flathead.mt.gov/planning_zoning/)

---

**From:** Joe Unterreiner [<mailto:joe@kalispellchamber.com>]  
**Sent:** Wednesday, February 15, 2012 11:33 AM  
**To:** Allison Mouch  
**Subject:** Flathead Co Growth Policy Public Hearing

Hi Allison – Please confirm you have received these comments for the hearing tonight.

Unfortunately, I will not be able to be there in person. But, I look forward to supporting the Growth Policy process in any way possible.

**Joe Unterreiner**  
President/CEO  
Kalispell Chamber of Commerce  
Phone: 406-758-2804  
Fax: 406-758-2805  
[www.kalispellchamber.com](http://www.kalispellchamber.com)  
[www.discoverkalispell.com](http://www.discoverkalispell.com)

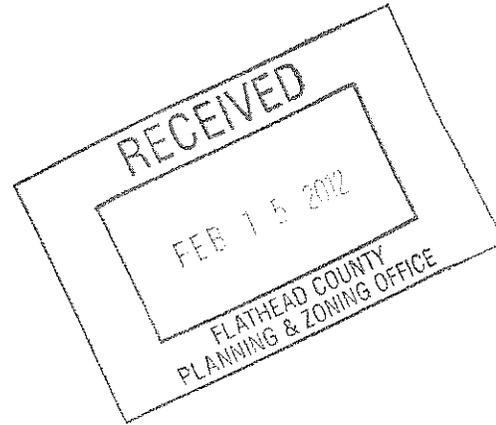
Kalispell Area Chamber of Commerce

DISCOVER CUBA

9 Days October 4, 2012

at P.B. Public Hearing

Debbie Biolo  
1985 Hodgson Rd  
Whitefish, MT. 59937  
406-862-3722



2-15-2012

Flathead County Planning Board  
Flathead County Commissioners

I am writing in response to the e-mail I received stating that the planning board was seeking formal input on the first completed draft on the Growth Policy update process.

While I am pleased to see the additions in regards to private property rights in the draft, I have to admit I am skeptical when I read the paragraph in Executive Summary Chapter 10 Implementation, about identifying the “collective vision” and developing goals and policies to support and implement that vision over time. I would like to see added to that, a statement of intent to preserve and balance the individual rights of property owners with the “collective vision” crowd in developing those goals and policies.

I fear much of the new language being added regarding property rights may be just lip service when I read on in Part 4 of the Preface, pg XXV, that states in the second paragraph “However, defining “property rights” and what entails them is less clear. It goes on to say” property rights are often seen as a function of what others are willing to acknowledge limited by the expectations and rights of others ; as formally sanctioned and sustained by law. There is no recognition of property or individual property rights without community, in this regard, property rights are rarely absolute and depend on the established societal and cultural parameters.” In other words this draft relies heavily on “collective vision” lingo while in it’s actual text undermines real individual rights of property owners. The text walks back or dilutes the concept of private property rights with phrases such as, less clear, fully dependent on context, no accepted definition of property rights, limited through regulation, rarely absolute, dependent on cultural and societal parameters, theoretical, etc etc.—Our founding fathers knew the critical nature of private property rights as they were firsthand witnesses to the abuse of power that occurs when government controls property. They knew private property is the foundation to liberty and wealth creation.

I disagree with the author’s interpretation that there are no absolute property rights, and I disagree with the draft’s establishment of “theoretical structure of property rights originated from the community.”

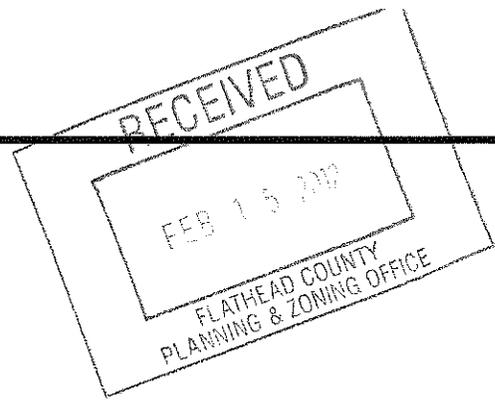
Please enter this letter into the public record as formal input for the hearing that will be held Feb. 15. before the Planning Board.

I appreciate the opportunity to submit my input. Thank you for considering my comments.

Sincerely,  
Debbie Biolo

Allison Mouch

**From:** Lorch, Steve [slorch@mt.gov]  
**Sent:** Wednesday, February 15, 2012 4:08 PM  
**To:** BJ Grieve; Allison Mouch  
**Subject:** Flathead County Growth Policy comments



Hi BJ and Allison,

I have pulled together a few comments from DNRC's perspective and included suggested language that would address the concerns. Nothing that should be controversial but none the less important. I will bring some copies with me to tonight's meeting but will defer to you if it will be more efficient for you to discuss. My apologies for the late submittal as I thought I had submitted some of these earlier but found them as a draft e-mail.

Thanks

Steve

From Chapter 2, Land Uses:

1. **(DRAFT Page 5)** Policy 1.3 – *Attempt to develop cooperative agreements with the Montana Department of Natural Resources and Conservation and Department of Fish, Wildlife and Parks on issues including, but not limited to, land use conversion, adjacent land development, land use planning documents, public hearings, trust land uses, public access for recreation, land acquisition and state exchanges of trust land with private and federal entities.*
  - a. *Lumping FWP in here will mislead people into thinking that they are generally involved in the management of Trust Land. Suggest a separate policy or sentence within this policy to list FWP and the specific issues that the county would like to work with them on (e.g. public access for recreation, recreation programs, fishing access sites, etc...).*
  - b. *The FWP agency name does not include the word "Department" – it is just "MT FWP".*
2. **(DRAFT page 14)** 3<sup>rd</sup> paragraph, PART 1: Federal, State and Tribal Lands – *The State of Montana manages a substantial acreage within Flathead County. Lands managed by the DNRC Trust Lands Management System account for approximately 130,953 acres of Flathead County.*
  - a. *Striking the word "system" and replacing it with the word "division" would be a more accurate moniker.*

Parks and Recreation Chapter

1. **(DRAFT Page 54)** Part 3, Table 4.2 showing the *13,000 acres of Whitefish Trust Lands as a "recreation area" and "managed by FWP".*
  - a. *This would perpetuate an ongoing misunderstanding and I respectfully request that this line be removed from the table as it is not a "State Recreation Area". Also, FWP does not manage recreation on these lands. They do have licenses and lease in some cases such as at formal Fishing Access Sites (FAS) and certain state parks that occupy Trust Land but other than those their role is Law Enforcement only.*

Chapter 8, Natural Resources

1. **(DRAFT Page 145)** Part 3, Land Resource; Forestry (last paragraph) – *The State of Montana manages approximately 130,953 acres of forested trust lands in Flathead County. The lands are managed by the Montana Department of Natural Resources Conservation Trust Lands Management System. ...*
  - a. *Again, strike the word "system" and replacing it with the word "division".*



*Steve Lorch, a.i.c.p.  
Community Planner  
MT DNRC Northwestern Land Office  
655 Timberwolf Parkway, Suite 1  
Kalispell, MT 59901-1215*

at Public Hearing

PO Box 771 • 35 4<sup>th</sup> Street West

Kalispell, Montana 59903



www.flatheadcitizens.org

T: 406.756.8993 • F: 406.756.8991

citizens@flatheadcitizens.org



To: Flathead County Planning Board  
Re: Flathead County Five-Year Growth Policy Update

Citizens for a Better Flathead appreciates this opportunity to once again comment on the Flathead County Growth Policy update. Our organization was founded in 1992 and we represent some 1500 members. Our mission is to foster informed and active citizen participation in the decisions shaping the Flathead's future, and to champion the democratic principles, sustainable solutions, and shared vision necessary to keep the Flathead *Special Forever*. We believe that Flathead County can grow without destroying the very special characteristics of the Flathead Valley that play such an important role in attracting new investment.

We have reviewed the updates and changes that have been proposed to the growth policy and for the most support these changes as valuable updates. We find that overall the changes proposed are in keeping with the direction you were given by the Flathead County Commissioners in Resolution 2015 P on January 3, 2011 and the work plan that was part of this resolution. We believe that the Flathead County Growth Policy contains a wealth of information that should be of value to many residents and businesses and appreciate that it is available on line. We also want to appreciate the staff and board's time in this process and the research that it took to update various sections.

Suggestions:

**Page 74, Chapter 5**

We would suggest also adding the Public Employers in the Flathead the cities of Columbia Falls and Whitefish.

**Page 80, Chapter 5**

It appears that this chapter is awaiting some additional text---given the note to this regard. It not clear if this is the final text for public review.

**Page 88, Chapter 7**

We do not support the changes to Policy 28.9 that potentially encourages high levels of development in areas of shallow ground water. We have attached a letter originally submitted to this board in the creation of the 2007 Growth Policy from the Flathead Lake Biological Station that address the need for lower density development in the areas of shallow ground water.

**Page 100, Chapter 7**

We do not support the removal of the sentence proposed as it is from a referenced source that has been footnoted

**Page 145, Chapter 10**

Policy 44.5 We do not believe that this policy is not necessary given Policy 44.4 that calls for a clear majority of support for a neighborhood plan. Policy 44.5 we would suggest should be deleted.

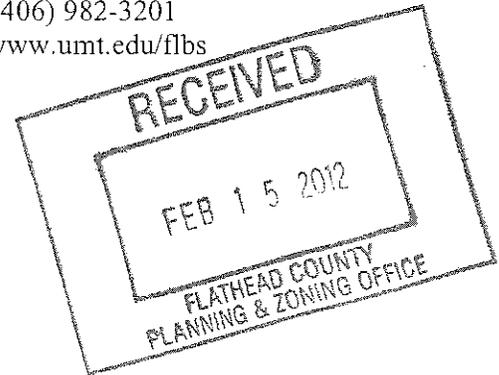
at Public Hearing



311 Bio Station Lane  
Polson, Montana, U.S.A. 59860-9659  
Phone (406) 982-3301  
Fax (406) 982-3201  
<http://www.umt.edu/flbs>

July 31, 2006

Flathead County Planning and Zoning  
Attn: Growth Policy  
1035 First Avenue West  
Kalispell, MT 59901



Dear Flathead County Planning Board members:

This letter responds to a formal request from the Flathead Lakers asking me to summarize Flathead Lake Biological Station (FLBS) research concerning the ecology of the shallow alluvial aquifer of the Flathead River, and provide my recommendations for aquifer protection policies for inclusion in the Flathead County Growth Policy.

The aquifer exists between the Flathead and Whitefish Rivers, generally following the Highway 2 corridor from Evergreen to Columbia Falls. The aquifer exists in the glacial gravel-cobble that was deposited 15-30 feet deep on top of an impervious clay formation. The gravels are overlain by two to five feet of rich soil developed from sediments deposited over the years by the Flathead River on its flood plain. The river has gradually migrated from west to east to its present position owing to tectonic tilting of the valley and the vast amount of gravel deposited on the river flood plain as the glaciers retreated. The aquifer is fed by water from the Flathead River and the Whitefish Range at the top of the flood plain. Ground water flows south to Evergreen where it is constricted by the finer, less porous materials deposited on the broad delta plain of Flathead Lake. The ground water and any pollution placed into the aquifer, flows down-slope at high rates, in some places reaching hydraulic conductivity as much as 5 meters per minute. The aquifer waters, and any constituents it may have in it, is discharged into the Flathead River in the area near and slightly upstream from the deltaic constriction near Evergreen. The Montana Bureau of Mines has produced a map of the aquifer that is generally consistent with our work.

In 1988, I published with J. V. Ward, in the science journal *Nature*, a paper on our findings that the aquifer is habitat for a wide variety of aquatic invertebrates, notably *Plecoptera* (stoneflies) that are nearly two inches long when mature. We were able to collect the invertebrates from specially installed monitoring wells throughout the aquifer system. The stoneflies are unique in that when they are mature they migrate to the river, where they emerge as flying adults to mate. Eggs are deposited in the river where they penetrate into the bottom and hatch. In contrast to most stoneflies, the new larvae migrate far into the aquifer to mature, rather than staying in the river channel. Work by FLBS scientist Bonnie Ellis showed that the food base for these large invertebrates is bacteria and protozoans that grow on the rocks in the aquifer. Hence, a complex food chain exists naturally in the aquifer, and the large, migratory stoneflies are strong indicators of the high connectivity of the ground water with the river.

FEB 15 2012

We collected these organisms throughout the aquifer, routinely as far away from the river as Highway 2 (e.g., near Glacier Park International Airport). The bugs were ubiquitous outside the urbanized area of the aquifer, but were absent inside the more urbanized area of the Evergreen community, suggesting that pollution was a problem in the Evergreen area. Indeed, direct measures of dissolved oxygen, nitrogen and phosphorus in the well grid verified what the stoneflies were telling us: that pollution of the aquifer by septic systems, street runoff and other sources from the urbanized zone was substantially polluting the aquifer. Moreover, the pollution load in the aquifer was discharging into the river and hence into Flathead Lake. This information, in due course, led to the sewerage of Evergreen to prevent pollution of Flathead Lake.

The scientific details of this research fundamentally changed the field of river ecology worldwide, because we showed clearly that alluvial aquifers have complex food webs made up of a wide variety of organisms, including large-bodied invertebrates and some small fish and salamanders and that the river and aquifer are inseparably linked. Passage of river water through the aquifer is a natural cleansing process mediated by food web retention and transformation of organic matter from the river and its flood plain. We cannot enjoy healthful water supplies, such as Flathead Lake, if the river-aquifer system upstream has been disconnected by human activities.

Clearly, activities such as large-scale gravel mining (which removes the gravel matrix of the aquifer, thereby creating lakes) and pollution from any number of sources, including urban expansion, can completely disrupt the aquifer-river ecosystem. Indeed, the stoneflies have not yet re-inhabited the aquifer in Evergreen since sewerage. However, the pollution load to Flathead Lake has been substantially attenuated, based upon our loading calculations.

We know from our Flathead River work and similar work elsewhere that ground water-surface water exchange between rivers and their flood plain aquifers involves complex processes and pathways that fundamentally determine water quality, riparian plant growth and aquatic species distributions and productivity.

Indeed, the Flathead Lake Biological Station has produced some 15 reports, scientific papers and books that use scientific data and studies from the Flathead River and elsewhere to clearly demonstrate that flood plains and their shallow alluvial aquifers are crucially important attributes of river systems. If these features are damaged or destroyed by gravel mining, disposal of pollutants, flow diversion or other influences, then rivers cannot maintain clean water, robust riparian corridors and habitat for fisheries and wildlife. Any activity that substantially or incrementally changes the natural integrity of flood plains and their aquifers will have a direct and pervasive impact on surface water quality. In the case of the Flathead Valley, destruction of or pollution of the shallow alluvial aquifer that re-circulates and cleanses river waters will have direct and permanent effects on the water quality and ecological integrity of the river and Flathead Lake.

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Moreover, a very recent scientific synthesis of river flood plains (Tockner and Stanford 2002), that typically include shallow alluvial aquifers such as occurs in the Flathead Valley, shows that these environments are the most endangered landscapes on earth. Flood plains and their aquifers occupy a small part of the earth's surface, but they are inordinately important as natural flood control zones and they are hot spots of biodiversity and bioproduction. Flood plains have rich soils, owing to natural fertilization and buildup through occasional flooding coupled with good drainage (due to the sand and gravel deposits of the aquifer system below the soil layers) and easy availability of irrigation water either from the aquifer or the river. They also are the most valuable real estate in many urbanizing areas because they are the riparian green belts along rivers that have high value as recreation areas. Unfortunately, in the U. S. and globally, flood plain structure and function has been vastly reduced by revetments, road building, gravel mining, pollution and stream flow regulation. Many governments in the U.S. (e.g., Napa, California) and around the world (e.g., Switzerland has a gas tax for flood plain restoration) have recognized the huge value of river flood plains and are spending millions of dollars to rehabilitate them. Conservation and protection are the only actions that make economic sense anywhere flood plains and their alluvial aquifers remain intact, such as the Flathead Valley.

To protect this valuable resource, we need to take several important steps. We have found that the area where the depth to ground water is five feet or less is a critically sensitive area. This critical zone is subject to flooding from the aquifer before overland flooding occurs. Flooding in the river sufficient to drive aquifer flooding happens several times each decade.

No new structures or gravel mines should be permitted in any area within the 1964 flood boundaries or the designated 100-year flood plain (whichever is farther from the river) or in areas that are less than five feet in elevation above the typical summer water table. Furthermore, it should be up to the developer to show that any proposed activity does not violate these criteria. Using fill to obtain an elevation greater than five feet in depth to the water table should not be allowed.

For the remainder of the shallow ground water and flood plain zone (the rest of the area between the Whitefish and Flathead Rivers downstream of the Columbia Falls - Whitefish road (Hwy 40) and including the Flathead Lake deltaic sands shallow aquifer on the north shore of Flathead Lake), only low density development with a minimum of impervious surface area should be allowed (e.g., no more than one septic system per 20 acres may be the appropriate level of density for this area) to prevent pollution to the aquifer, river and lake.

Scientists at FLBS are continuing the scientific investigations of the ecology of flood plains and their alluvial aquifers in Montana with funding from the National Science Foundation. Upon request, we are available to elaborate our findings and the implications of our work.

Sincerely,

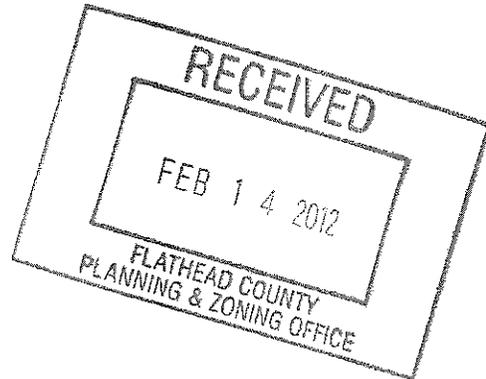
Jack A. Stanford  
Bierman Professor and Director



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lakers@flatheadlakers.org  
www.flatheadlakers.org

*Flathead Lakers:*

*Working for clean water, a healthy ecosystem, and lasting quality of life in the Flathead Watershed*



February 13, 2012

Flathead County Planning Board  
c/o Flathead County Planning & Zoning Dept.  
1035 First Ave W  
Kalispell, MT 59901

Dear Planning Board Members:

Thank you for the opportunity to provide comments on the January 5, 2012 Preliminary Draft Growth Policy Update.

The Flathead Lakers is a nonprofit organization working for clean water, healthy ecosystems and lasting quality of life in the Flathead Watershed. The Flathead Lakers was founded in 1958 and currently has over 1,500 members, many of whom live and own property in Flathead County. We previously submitted recommendations related to water quality for the growth policy and comments on drafts throughout its development.

Flathead County and its residents are blessed with abundant, clean waters and a natural water treatment system that sustains them at no cost. These waters, along with the wetlands, floodplains, riparian areas and shallow aquifers that sustain them, support farms and towns, fish and wildlife, recreation and tourism. They recharge drinking water supplies and reduce flooding. They support public health and property values. They are truly an irreplaceable resource. Numerous polls, surveys and focus groups have shown that protecting clean water is a high priority for people who live here.

However, Flathead Lake has been listed as an impaired water body by the Montana Department of Environmental Quality due to nutrient (nitrogen and phosphorus) pollution from nonpoint sources (also known as polluted runoff). Consequently, DEQ adopted Total Maximum Daily Loads (TMDL) for Flathead Lake that provide targets for nutrient reduction. The TMDL for Flathead Lake prescribes a 15 percent reduction in nutrient loading. Changes in land use can degrade water quality by increasing polluted runoff. Without appropriate safeguards, development can jeopardize clean water.

Lands critical to sustaining clean water, such as wetlands, riparian areas, floodplains and shallow alluvial aquifers, serve as the "kidneys" of rivers and lakes. In a natural state they filter out nutrients and other pollutants.

Preventing pollution through thoughtful planning that protects this natural filtering system is the least expensive and most effective way to protect clean water. The guidance provided by the current Growth Policy can help sustain clean water and the many benefits it provides. The Flathead Lakers specifically support Goals 35 through 40 and their policies in Chapter 8 of the January 5, 2012 Preliminary Draft Growth Policy Update. We encourage you to support the Growth Policy's continued protection for Flathead waters by maintaining these goals and policies.

Sincerely,

Robin Steinkraus  
Executive Director

Steve Rosso



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lakers@flatheadlakers.org  
www.flatheadlakers.org

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Sincerely,

Robin Steinkraus  
Executive Director

Steve Rosso  
Board of Directors

## Allison Mouch

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**From:** Robin Steinkraus [lakers@flatheadlakers.org]  
**Sent:** Monday, February 13, 2012 1:43 PM  
**To:** Allison Mouch  
**Cc:** Steve Rosso  
**Subject:** comments-Preliminary Draft Growth Policy Update  
**Attachments:** Lakers growthpolcomm 2-12.doc

Hi Allison,

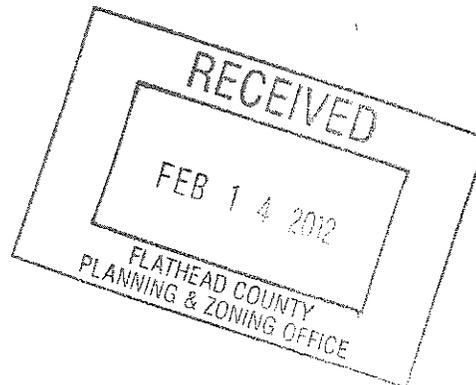
Attached is the Flathead Lakers' comment letter on the Preliminary Draft Growth Policy Update. I would appreciate it if you could include this in the record. We realize it is too late to include our letter in the planning board members' information packets, however, Flathead Lakers board member Steve Rosso will attend the public hearing on Wednesday to present copies to the planning board and discuss our comments.

If someone else takes care of this, could you please forward this message and letter to the appropriate person.

Thanks,

Robin

Robin Steinkraus, Executive Director  
Flathead Lakers  
PO Box 70  
Polson, MT 59860  
406-883-1346  
[www.flatheadlakers.org](http://www.flatheadlakers.org)



## Allison Mouch

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**From:** BJ Grieve  
**Sent:** Friday, January 27, 2012 12:56 PM  
**To:** 'eric@sandssurveying.com'  
**Cc:** Allison Mouch  
**Subject:** RE: Draft Growth Policy

GOOD input Eric, and you're correct. We overlooked that. I'll cc this email to Allison and she'll get it squared away. Thanks!

BJ Grieve, AICP<sup>®</sup>, CFM<sup>®</sup>  
Planning Director  
Flathead County Planning & Zoning  
1035 First Avenue West  
Kalispell, MT 59901-5607  
Phone: 406.751.8200  
Fax: 406.751.8210

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**From:** Eric H. Mulcahy [<mailto:eric@sandssurveying.com>]  
**Sent:** Friday, January 27, 2012 10:47 AM  
**To:** BJ Grieve  
**Cc:** 'Mark Owens'  
**Subject:** Draft Growth Policy

Good Morning BJ,  
I just going through the Draft Growth Policy and it is apparent that your office has put in a substantial amount of work making the updates. I'm about half way through and it looks good to me. However there is one omission I noticed in the Neighborhood Plan Section Chapter 11. The Cooper Farms Neighborhood Plan was adopted by the County Commissioners in late June or early July of 2008 and it is not listed in Table 11.1. I am also wondering if this area should be shaded on the Designated Land Use Map. Anyway that is my comment to date.  
Thanks for your consideration.

Eric H. Mulcahy, AICP  
Sands Surveying, Inc.  
2 Village Loop  
Kalispell, MT 59901  
Ph. (406) 755-6481  
Fax (406) 755-6488

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Information from ESET Smart Security, version of virus signature database 6833 (20120127)

The message was checked by ESET Smart Security.

<http://www.eset.com>

1/12/2012

message,  
returned call  
at  
~10:00am.

Gary  
Krueger

261  
7290

Calling as a follow-up to his email regarding the idea of multiple lawyers to review and "jam" with the Planning Board. He said it could just be a "Q&A" session. I said that this idea could possibly be implemented by inviting a few land use attorneys to a workshop and letting the PB do Q&A with them regarding their take on the language in the document.

He mentioned Ken Kalvig, Duncan Scott, and Tammi Fisher. I mentioned Peter Steele. I said I'd forward this idea to Allison to include as public comment. She could ask the Board after the public hearing February 15 if this is something they would like to do, who they would like to invite, and maybe do this at a workshop following the public hearing. But it's up to the Planning Board so we'll put it in front of them.

## Allison Mouch

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**From:** BJ Grieve  
**Sent:** Thursday, January 12, 2012 8:08 AM  
**To:** Allison Mouch  
**Subject:** FW:

A comment/idea from Gary Krueger to add to the file for PB consideration.

BJ Grieve, AICP<sup>®</sup>, CFM<sup>®</sup>  
Planning Director  
Flathead County Planning & Zoning  
1035 First Avenue West  
Kalispell, MT 59901-5607  
Phone: 406.751.8200  
Fax: 406.751.8210

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**From:** [garykrueger@centurylink.net](mailto:garykrueger@centurylink.net) [mailto:[garykrueger@centurylink.net](mailto:garykrueger@centurylink.net)]  
**Sent:** Thursday, January 12, 2012 6:23 AM  
**To:** BJ Grieve  
**Subject:**

For your workshop on the growth policy why not ask for 2 to 4 of our local attorneys to sort of jam with our planning board. The hard part might be trying to find one not suing the county and a accepting no pay.