

Environmental groups have powerful friends on the right Congressional Committees. Pro-environmentalist Congressmen chair the House Inte-

rior and Insular Affairs Committee and its Energy and the Environment and Public Lands and National Parks subcommittees, the House Government Operations Subcommittee on Environment, Energy and Natural Resources, and the House Energy and Commerce Committee. Congressman Phillip Burton, an important figure on the House Interior Committee, has an interesting background as a "hardball player" in taking private lands for federal parks. He was among the first to recognize that the parks issue was a hot vote-getter in his urban San Francisco District, and gained a reputation for utter ruthlessness in his Subcommittee Chairmanship for National Parks and Insular Affairs. A story in the San Jose, California, *Mercury* for July 30, 1978, illustrates the point. The story quotes conservative Congressman John H. Rousselot as saying, "Burton scares people," and comments, "They may have reasons for fear." The case of Representative James Oberstar, Democrat from the 8th District in Minnesota, was cited. Oberstar's constituents love to ride on snowmobiles, so hated by environmentalists (one of my wildernist friends calls them "anti-terrain vehicles" although they never touch the ground and there is no real environmental damage done by them). Oberstar came before Burton's Subcommittee asking him to allow snowmobiles and motorboats on certain limited areas of the Boundary Waters Canoe Area in Minnesota, and in a protracted battle, actually won an amendment—one of the few times anyone has ever beaten Burton. The article quoted Burton as coming up to Oberstar after the vote and saying, "Jim, I'm going to get even with you one of these days. I'll make the whole [expletive deleted] 8th [Oberstar's] District a National Park." Oberstar replied, "[Expletive deleted], Phil, I thought you already had!"

Burton is also an astute judge of which way power is flowing. By early 1979, he had sensed resistance growing to the direct Congressional taking of private land for federal parks. On May 31, 1979, he quietly sent out invitations to a select few to attend "An informal seminar to consider improvements in federal land acquisition efforts related to our National Park system and related types of areas." Only environmentalist groups and strongly pro-environmentalist government officials were invited. A staff aide of a prominent Senator was invited, and upon seeing the invitation list, asked Burton whether a more balanced representation shouldn't be asked to attend. Burton was emphatic: "No one else has been invited, or will be; if they come uninvited, they will be asked to leave." Charles Cushman, executive director of the National Inholders Association heard of the seminar and requested admission; he was bluntly refused entry.

What went on in the Burton seminar was intended to remain secret; no transcript of the proceedings has been published. I obtained the following account from the staff aide of a prominent Western Senator who attended the

Burton Secret Seminar, as it has since been dubbed by insiders, held June 15 and 16, 1979, in Room 2118 of the Rayburn House Office Building, which is the Armed Services Committee Room. In attendance were land acquisition personnel from the Nature Conservancy, the Trust for Public Lands, and the National Parks Foundation, plus the Chiefs of Land Acquisition for the U.S. Department of Agriculture Forest Service, the Bureau of Land Management, and the National Park Service. Willis Kriz represented the Park Service. Congressman John Seiberling was in and out, but a key staff aide attended the entire seminar for him.

Congressman Burton opened the seminar: "We are here to figure out how to buy more land at less cost, faster. Some of the biggest problems we have are the conservative leaders in the Senate and in the Office of Management and Budget." The first panel after Burton's introductory statement was made up of land acquisition specialists from several non-profit groups that buy private land for preservation, including the Nature Conservancy. The panelists complained of the lag time between their purchase of land targeted for federal acquisition and government buy-out: interest rates and administrative costs were sapping their capital, and they asked for more direct access to federal funds.

Then Nathaniel Pryor Reed, an independently wealthy former Assistant Secretary of Interior, took the floor. Reed bills himself as a "staunch Republican," although his politics closely resemble Teddy Kennedy's, and he takes every available opportunity to knock Ronald Reagan and James Watt. Reed made some saber-tongued remarks about Watt as the banquet speaker of the Sierra Club's annual dinner May 2, 1981, where he also called National Park inholders "squatters." Reed seemed to be the real force behind the "Burton Seminar"; one attendee noted that "Burton would constantly look to Reed for signals, and guided his remarks according to Reed's affirmative or negative nods of the head. I've never seen Burton play second fiddle to anyone before." Reed stood up in the seminar and strongly recommended that the Land and Water Conservation Fund be removed from Congressional control to become, as he put it, "a self-activating land acquisition slush fund" completely at the discretion of the Secretary of the Interior. (Remember that Cecil Andrus was in office at the time.)

Among the 41 attendees, 9 were environmentalists, including Laurance Rockefeller of the Natural Resources Defense Council and Edgar Wayburn of the Sierra Club; 14 were federal agency officials, including Jim Moorman of the Justice Department (formerly of the Sierra Club Legal Defense Fund) and Malcolm Baldwin of the Council of Environmental Quality; 5, Congressional aides; 7, Congressional committee staffers; and several were state officials, including Huey Johnson of California. Attendees were invited to a reception and dinner

at the Democratic Club in Washington during the seminar. Multiple-use groups were refused entry to this closed-door session, making a mockery of environmentalist insistence on "public access to the decision-making process."

These machinations of the New Preservationists to create an uncontrollable land grab slush fund and to feed public monies to private non-profit environmentalist land-buying groups are rather disturbing in themselves, but they take on new meaning in light of Congressman Burton's later behavior. After President Reagan took office, Burton resigned his National Parks and Insular Affairs Subcommittee chairmanship, but remained on the Interior Committee. His old subcommittee was reconstituted as the Public Lands and National Parks Subcommittee, Congressman Seiberling presiding. Insiders believe Burton is gearing up for another run at the Speaker of the House position by emphasizing his role on the House Education and Labor Committee—he narrowly lost to Thomas P. "Tip" O'Neill of Massachusetts in a past try.

It is worthwhile during our consideration of the public interest to focus on the activities of certain non-profit land buying organizations such as the Nature Conservancy and the Trust for Public Lands. Their groups function roughly as follows: A non-profit group identifies a parcel of land they believe should be preserved as open space. Often a piece of land is brought to their attention by other environmentalist groups, or by the property owner. The "non-profit" may then discuss the land with federal, state or local governments to determine their interest in acquiring the property. If the government says "yes," then the non-profit borrows funds against the government's pledge from private sources, and negotiates acquisition with the land owner. If the government says "no," the non-profit may still purchase the land and then lobby Congress to buy the land from them anyway. In this way private non-profit environmentalist groups set national priorities for what land should be purchased, from whom and for how much.

This rather simplified sketch of the process is in real life subject to many ifs, and or buts that wildly complicate the transactions, but the outline is essentially correct and realistic. After the non-profit buys the land, they hold it for a while, paying interest on the loan until the government is willing to acquire the land and has Congressional authorization and appropriations. The lag time can kill the deal as interest payments draw down the non-profit's capital. If all goes well, the non-profit sells the land to the government for the price at which they acquired it, *plus* the cost of their interest payments and an administrative charge to cover the cost of their administrators' and professionals' salaries. In effect, these private non-profit land preservation groups operate on real-estate commissions from selling land to the government.

These activities raise certain questions of the public interest in relation to the land acquisition policy of the U.S. government. For openers, who is

making that policy? Is the government a reactor to non-profit group actions? Once the land is acquired by a non-profit, is the government legally or morally obligated to bail them out? By what criteria does the non-profit determine these lands to be "threatened," or to be of local, state or national significance, or that federal purchase would be in "the public interest"? Are there alternatives to acquisition?

Some of these same questions were raised by a September 1, 1977, *Review of Acquisition Costs of National Seashores* by the Congressional Research Service. A section on what they called "The Secrecy Option" pointed out that one of the most significant factors in raising prices that the federal government must pay for recreation lands is the openness of the entire procedure. "In the private sector, when a large parcel of land is to be acquired from numerous property owners, the proposed acquisition is seldom widely publicized," the report said.

Rather, the acquisition is made piece by piece, often by dummy or front organizations to conceal the fact that a large quantity of land may be sought until purchase of the desired parcel is essentially completed. The advantage of this strategy is that it keeps down the cost of acquisition because if the property owner knows that his land is greatly desired, he can often ask and receive a higher price for it.

The Federal government has not usually been able to employ this technique in the acquisition of park and recreation lands. It is possible that this has been done on projects of sensitive or classified nature.

The dummy corporation front was successfully used recently by a private group to acquire a series of Atlantic barrier islands and preserve them in their natural condition. The Nature Conservancy, from 1972 to 1975, used the technique when "Offshore Islands, Incorporated," a cover corporation for the Nature Conservancy, purchased most of the islands comprising the barrier chain stretching south from Assateague Island National Seashore and Chincoteague National Wildlife Refuge to Chesapeake Bay.

The *Washington Post* described the procedure in an interview: "We created it just as a front, so they"—the Conservancy—"could proceed with buying the islands," said M. Lee Payne, a Norfolk, Virginia, banker, who the Nature Conservancy said conceived the idea for the company. "Some of those islands wouldn't have been sold if the owners had known they were going to the Nature Conservancy" [and eventually to the Federal government].

Non-profit environmentalist groups have another favorite tactic: buy a piece of land and then create a political climate by public agitation for federal purchase. The Trust for Public Land has become particularly adept at land speculation using environmentalist tactics and public relations to pressure governmental purchase of their property. An interesting case in point involves an obsolete electronics facility owned by RCA within the boundaries of the Point Reyes National Seashore. RCA had no plans to develop the property and

did not care whether it was sold or not, and the National Park Service had said they did not wish to acquire the inholding. However, the Trust for Public Land sent a representative to New York, negotiated an option on the property with RCA, began a strong political campaign for federal purchase of the land, and forced the United States into buying property that the National Park Service did not want, was not on their acquisition list, and yielded no benefit to the public.

The Trust for Public Land is involved in another interesting case: Sweeney Ridge, an area south of San Francisco that environmentalists decided should be included in the Golden Gate National Recreation Area (remember Wolfback Ridge from chap. 6?). Sweeney Ridge is an open hilly site of grassy slopes and swales with clustered oak copses and other tree types. The Trust for Public Land went to the owner, West Aspen Corporation, an oil and development company from the south central United States, and negotiated an option to buy Sweeney Ridge for \$8.5 million, putting up no money. The Trust then hired an appraiser to put a value on the land, spending about \$40,000 for an appraisal that found Sweeney Ridge to be worth from \$22 to \$24 million. Next, the Trust offered to sell the land to the United States government for \$9.6 million. The National Park Service said, "Sweeney Ridge is not on our acquisition list, we do not want to buy it."

So the Trust for Public Land began a political campaign with other environmentalist groups to pressure Congress into buying Sweeney Ridge. Congressman Phillip Burton came to the rescue, and included the site in his bill known as House Resolution 3 in 1980, which was a cleanup bill to include everything that had been forgotten in his parks-barrel legislation from 1978, the Omnibus Parks Act. H.R. 3 passed even though the Andrus Interior Department testified that Sweeney Ridge should not be part of the Recreation Area and that they were opposed to it. Sweeney Ridge was thus authorized, but went to the bottom of the priority list. The Trust for Public Land then convinced their friends in Congress to go to the Appropriations Committee and get Sweeney Ridge added as a "line item," to be slipped into the budget without notice. The Trust failed in this effort, but the site was mentioned in an Appropriations Committee Report with no authority to overrule Interior Department priorities.

Thwarted in Congress, the Trust for Public Land created a huge media and public relations blitz, claiming that a deadline would soon arrive to escalate the price, and that this precious piece of speculative property was the discovery site of San Francisco Bay by the Spanish explorer Gaspar de Portola in 1770. Charles Cushman, executive director of the National Inholders Association, was skeptical of the Portola claim and did a title search and historical reconnaissance. He found that the actual discovery site was on a

nearby tract that had been condemned by the City of Pacifica in 1971 and was already in public ownership. But Cushman also found that West Aspen Corporation had held back 50 prime acres in the midst of the Sweeney Ridge site for construction of condominiums, which had not been mentioned in the public furor. And West Aspen would also qualify for a \$14 million tax deduction since their land had been appraised at \$24 million and they would "only" receive \$8.5 million. In sum, then, West Aspen got federal zoning for its condominium sites, a \$14 million tax break, and \$8.5 million in public money from this plan while the Trust for Public Land was to obtain a \$1.1 million return for a \$40,000 appraisal investment which amounted to a double escrow scheme. With the cloak of environmentalist holiness, a developer could get rich and a non-profit group could milk the federal treasury for a tidy "donation," all in "the public interest." James Watt's Interior Department has not agreed to go along with this plan. For this, Watt is blasted as a destroyer of the environment, and blamed for "cutting off money to buy more national parkland." It sounds different when you say, "stopping the confiscation of private property for use as a federal park," or "preventing environmentalist land speculators from profiting in a million-dollar public relations scam." It's all in the point of view.