

FEEDING AT THE TROUGH

THE ENVIRONMENTAL MOVEMENT'S GOVERNMENT GRANTS, TAX SUBSIDIES, LEVERAGED INCOMES, AND CONTROVERSIAL EXPENDITURES

**A REPORT BY
THE CENTER FOR THE DEFENSE OF
FREE ENTERPRISE**

Feeding at the Trough: Introduction

The environmental movement is arguably America's most favored advocacy elite in terms of government largesse received. That fact is virtually unknown. **Feeding at the Trough** examines the question, "How much U.S. taxpayer money is going to environmental groups and how are they spending it?" It focuses on environmental organization income from the public treasury and how public money is spent by environmental organizations generating controversy through lobbying, litigation and influencing elections—usually a well-guarded secret even though the law requires non-profit organizations to make full public disclosure.

Feeding at the Trough asks another question: "Why is there no congressional oversight of environmental advocacy groups that receive taxpayer money?"

Feeding at the Trough examines three types of economic benefit that environmental organizations receive from government: 1) Direct payments from the United States Treasury to the bank accounts of specific environmental organizations; 2) Government subsidies in the form of reduced or excused payments of normal property taxes owed to the public treasury; and 3) Leveraged incomes, that is, government grants to advocacy groups for non-controversial nature programs that free up the organization's own funds to generate controversy through lobbying, litigation and influencing elections.

Feeding at the Trough does not question the tax exempt status of environmental organizations and does not call for environmental organizations to pay income taxes. This report does not question the ability of environmental organizations to freely lobby, litigate and influence elections with their private donor funds. It questions the propriety of granting tax money to organizations with a history of generating controversy that adversely affects significant sectors of the taxpaying public.

Feeding at the Trough also examines controversial expenditures of taxpayer money, especially federal funds used by environmental groups to lobby Congress and thwart local ballot issues.

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All raw data used in this report were obtained from public records, including IRS Form 990 reports, and annual financial filings required by the States of New York, Virginia, and California. Statistical and political analyses were performed by the Center for the Defense of Free Enterprise.

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Who Gets the Tax Money? A Sample of 35 Environmental Organizations Receiving Government Grants

Finding out all the environmental groups that get tax money is virtually impossible in the current state of nonprofit organization income reporting.

For one thing, the Internal Revenue Service does not publish the government grants received by any of the approximately 12,000 environmental organizations on its Cumulative Index of Nonprofit Organizations.

For another, there is no federal directory that lists all government grants going to environmental organizations. That lack is notable in itself. Even within a single agency such as the Environmental Protection Agency, the total money award compilations are not complete.

To complicate matters further, government monies are given to environmental groups as contracts, fee-for-service awards and other project-related activities, which are not counted as “government grants” that appear on Line 1(c) of the IRS Form 990 annual report filed by nonprofit organizations. **Feeding at the Trough** only counts those monies listed on Line 1(c) of the IRS Form 990 annual report filed by the selected environmental organizations.

In addition, environmental organizations are not eager to boast publicly of the taxpayer monies they receive and rarely report them in their newsletters, direct mail solicitations, or other public information. The Internal Revenue Service requires all nonprofit organizations to declare their government grants on annual filings, as do a number of state agencies, but government does not publish this information.

Therefore, individual search of federal and state filings is the only available method of obtaining data about the income of environmental organizations from government grants. It is impractical to conduct an exhaustive survey of all 12,000 environmental groups in America. However, in detailed examinations of 200 varied environmental organizations' Form 990 annual reports, we found that about 20 percent of those reviewed received government grants of public funds. The 35 organizations we selected for inclusion in **Feeding at the Trough** range over groups of all sizes and specialties and represent most if not all the interest areas of the entire environmental movement. The size of grants was also a factor, and our selection included both the largest and smallest typical grants. This list is NOT the top money recipients, many of which were omitted to allow a fair representation of groups receiving medium and small grants.

Who Gets the Tax Money?

The 35 Sample Environmental Organizations

This is list does not rank the top 35 money recipients, but rather depicts a representative sampling of groups receiving government grants of any size.

Ranked by Amount of Government Grant Monies Received in Most Recent Year

Rank	Organization	(Year of most recent grant)	Headquarters Location
1.	The Nature Conservancy	(1993)	Virginia
2.	World Wildlife Fund	(1993)	Washington, D.C.
3.	Ducks Unlimited	(1994)	Washington, D.C.
4.	World Resources Institute	(1993)	Washington, D.C.
5.	Peninsula Open Space Trust	(1994)	California
6.	Community Environmental Council	(1993)	California
7.	Conservation Fund	(1994)	Virginia
8.	Sierra Club Legal Defense Fund	(1993)	California
9.	Save the Redwoods League	(1993)	California
10.	African Wildlife Fund	(1992)	Washington, D.C.
11.	National Audubon Society	(1994)	Washington, D.C.
12.	Center for Marine Conservation	(1993)	Washington, D.C.
13.	American Humane Association	(1994)	Colorado
14.	Trust for Public Lands	(1994)	California
15.	Environmental Defense Fund	(1993)	Washington, D.C., New York
16.	Defenders of Wildlife	(1993)	Washington, D.C.
17.	Inform, Inc.	(1993)	New York
18.	Greenbelt Alliance	(1990)	California
19.	Bay Area Ridge Trail Council	(1993)	California
20.	Natural Resources Defense Council	(1991)	Washington, D.C., New York
21.	Sonoma Land Trust	(1993)	California
22.	Desert Tortoise Preserve Committee	(1992)	California
23.	Mountains Restoration Trust	(1993)	California
24.	American Rivers	(1993)	Washington, D.C.
25.	Izaak Walton League of America	(1993)	Virginia
26.	Pacific Environment and Resources Center	(1994)	California
27.	American Farmland Trust	(1993)	Washington, D.C.
28.	Silicon Valley Toxics Coalition	(1993)	California
29.	Resource Renewal Institute	(1993)	California
30.	National Wildlife Federation	(1993)	Washington, D.C.
32.	Save San Francisco Bay Association	(1994)	California
33.	Friends of the Sea Otter	(1994)	California
34.	Citizens for a Better Environment	(1993)	California
35.	Sierra Club Foundation	(1993)	California

Government Grant Amounts to Eco-Organizations Sample of 35 Groups, Most Recent Year

ORGANIZATION (year)	REVENUE	EXPENSES	GOVERNMENT GRANTS
The Nature Conservancy (1993)	\$278,497,634	\$219,284,534	\$28,167,119 (1994)
World Wildlife Fund (1993)	\$60,791,945	\$54,663,771	\$7,228,199
Ducks Unlimited (1994)	\$60,757,755	\$60,629,671	\$6,177,725
World Resources Institute (1993)	\$11,086,151	\$11,426,685	\$3,184,511
Peninsula Open Space Trust (1994)	\$8,569,810	\$6,002,745	\$3,000,000
Community Environmental Council (1993)	\$2,944,630	\$2,952,582	\$1,598,022
Conservation Fund (1994)	\$5,985,898	\$5,929,843	\$1,484,251
Sierra Club Legal Defense Fund (1993)	\$9,539,684	\$9,646,214	\$1,296,350*
Save the Redwoods League (1993)	\$4,255,012	\$6,591,936	\$1,267,000
African Wildlife Fund (1992)	\$4,004,901	\$3,776,679	\$974,813
National Audubon Society (1994)	\$36,654,749	\$34,553,505	\$707,038
Center for Marine Conservation (1993)	\$13,852,324	\$6,569,855	\$680,289
American Humane Association (1994)	\$4,909,149	\$4,985,731	\$517,753
Trust for Public Lands (1994)	\$27,961,238	\$26,948,857	\$511,197
Environmental Defense Fund (1993)	\$19,219,907	\$18,999,791	\$411,123
Defenders of Wildlife (1993)	\$5,904,357	\$5,705,580	\$384,396
Inform, Inc. (1993)	\$1,750,231	\$1,739,745	\$309,482
Greenbelt Alliance (1991)	\$809,282	\$774,805	\$154,000

Notes: All figures most recent reporting year available. Some organizations had not filed reports for either calendar or fiscal 1994 as of May 1, 1995. In some cases, earlier years were most recent filed. In 1993, The Nature Conservancy obtained \$76,318,014 from sale of private land to the government and \$20,402,672 from government grants. The Sierra Club Legal Defense Fund amount represents court awards in lawsuits paid by governmental units, including the U.S. Treasury.

Government Grant Amounts to Eco-Organizations Sample of 35 Groups, Most Recent Year

ORGANIZATION (year)	REVENUE	EXPENSES	GOVERNMENT GRANTS
Bay Area Ridge Trail Council (1993)	\$484,310	\$515,055	\$134,750
Natural Resources Defense Council (1991)	\$16,926,305	\$17,109,303	\$96,017
Sonoma Land Trust (1993)	\$265,925	\$230,044	\$89,660
Desert Tortoise Preserve Committee (1992)	\$645,379	\$172,461	\$76,683
Mountains Restoration Trust (1993)	\$994,089	\$455,779	\$73,392
American Rivers (1993)	\$976,558	\$1,025,050	\$72,835
Izaak Walton League of America (1993)	\$4,492,992	\$1,806,382	\$67,392
Pacific Environment and Resources Center (1994)	\$357,346	\$450,896	\$55,796
American Farmland Trust (1993)	\$4,290,634	\$3,730,911	\$35,805
Silicon Valley Toxics Coalition (1993)	\$645,147	\$631,516	\$27,401
Resource Renewal Institute (1993)	\$536,905	\$529,673	\$24,985
National Wildlife Federation (1993)	\$82,816,324	\$83,574,187	\$24,444
Save San Francisco Bay Association (1994)	\$585,348	\$558,227	\$23,750
Friends of the Sea Otter (1994)	\$274,868	\$284,758	\$23,706
Citizens for a Better Environment (1993)	\$1,298,196	\$1,317,621	\$20,985
Sierra Club Foundation (1993)	\$8,117,953	\$6,846,140	\$6,000
Total, 35 Sample Government Grants, Most Recent Year			\$58,906,869

Government Grant Lookback: Cumulative Awards

ORGANIZATION	YEAR	GOVERNMENT GRANTS	CUMULATIVE TOTALS
The Nature Conservancy	1994	\$28,187,119	
	1993	\$20,402,672	
Three Year Lookback	1992	\$12,718,484	\$61,308,275
World Wildlife Fund	1993	\$7,228,199	
	1992	\$10,971,050	
	1991	\$5,035,066	
Four Year Lookback	1990	\$3,350,020	\$26,584,335
Ducks Unlimited	1994	\$6,177,725	
	1993	\$6,398,992	
	1992	\$4,215,435	
	1991	\$5,913,685	
Five Year Lookback	1990	\$4,556,447	\$27,262,284
World Resources Institute	1993	\$3,184,511	
Two Year Lookback	1992	\$2,450,832	\$5,635,343
Peninsula Open Space Trust	1994	\$3,000,000	
Three Year Lookback	1992	\$23,970	\$3,023,970
Community Environmental Council	1993	\$1,598,022	
	1992	\$2,026,058	
	1991	\$1,768,992	
Four Year Lookback	1990	\$1,400,234	\$6,793,306
Conservation Fund	1994	\$1,484,251	\$1,484,251
Sierra Club Legal Defense Fund	1993	\$1,296,350*	\$1,296,350*
Save the Redwoods League	1993	\$1,267,000	
	1992	\$575,350	
	1991	\$1,326,000	
Four Year Lookback	1990	\$2,312,000	\$5,480,350
African Wildlife Fund	1992	\$974,313	
	1991	\$842,657	
Three Year Lookback	1990	\$887,551	\$2,704,521
National Audubon Society	1994	\$707,038	
	1993	\$546,819	
	1992	\$505,850	
Four Year Lookback	1991	\$458,145	\$2,217,852

Government Grant Lookback: Cumulative Awards

ORGANIZATION	YEAR	GOVERNMENT GRANTS	CUMULATIVE TOTALS
Center for Marine Conservation Four Year Lookback	1993	\$680,289	\$2,325,005
	1992	\$673,257	
	1991	\$586,096	
	1990	\$385,363	
American Humane Association Four Year Lookback	1994	\$517,753	\$2,285,913
	1993	\$652,165	
	1992	\$553,128	
	1991	\$562,867	
Trust for Public Lands Two Year Lookback	1994	\$511,197	\$869,013
	1993	\$357,816	
Environmental Defense Fund Four Year Lookback	1993	\$411,123	\$1,493,976
	1992	\$402,100	
	1991	\$432,313	
	1990	\$248,440	
Defenders of Wildlife Four Year Lookback	1993	\$384,396	\$1,285,653
	1992	\$602,527	
	1991	\$76,200	
	1990	\$222,530	
Inform, Inc. Two Year Lookback	1993	\$309,482	\$378,161
	1992	\$68,679	
Greenbelt Alliance Two Year Lookback	1991	\$154,000	\$297,000
	1990	\$143,000	
Bay Area Ridge Trail Council Two Year Lookback	1993	\$134,750	\$288,095
	1992	\$153,345	
Natural Resources Defense Council Two Year Lookback	1991	\$96,017	\$246,622
	1990	\$150,605	
Sonoma Land Trust	1993	\$89,660	\$89,660
Desert Tortoise Preserve Committee Two Year Lookback	1992	\$76,683	\$85,413
	1991	\$8,730	
Mountains Restoration Trust Two Year Lookback	1993	\$73,352	\$1,809,052
	1992	\$205,637	
	1991	\$1,500,000	
	1990	\$30,063	

Government Grant Lookback: Cumulative Awards

ORGANIZATION	YEAR	GOVERNMENT GRANTS	CUMULATIVE TOTALS
American Rivers Three Year Lookback	1993	\$72,835	\$160,441
	1992	\$56,606	
	1991	\$31,000	
Izaak Walton League of America Four Year Lookback	1993	\$67,392	\$377,980
	1992	\$153,831	
	1991	\$113,347	
	1990	\$43,410	
Pacific Environment and Resources Center	1994	\$55,796	\$55,796
American Farmland Trust Four Year Lookback	1993	\$35,805	\$633,745
	1992	\$58,250	
	1991	\$66,500	
	1990	\$473,190	
Silicon Valley Toxics Coalition	1993	\$35,805	\$35,805
Resource Renewal Institute	1993	\$24,985	\$24,985
National Wildlife Federation	1993	\$24,444	\$24,444
Save San Francisco Bay Association	1994	\$23,750	\$23,750
Friends of the Sea Otter	1994	\$23,706	\$23,706
Citizens for a Better Environment Two Year Lookback	1993	\$20,985	\$33,300
	1992	\$12,315	
Sierra Club Foundation	1993	\$6,000	\$6,000
Cumulative Total, 35 Sample Organizations, Various Lookbacks	1994 to 1990	\$156,644,352	

The Internal Revenue Service Cumulative Index of NonProfit Organizations indicates there are about 12,000 environmental groups in the United States.

There is no accounting of how many environmental organizations receive taxpayer money from the U.S. Treasury or state and local public funds.

There is no accounting of how much taxpayer money from the U.S. Treasury goes to environmental advocacy organizations.

Congress does not know which agencies are giving how much federal money to which environmental advocacy organizations.

Tax Subsidies: The Nature Conservancy's Special Property Tax Exemption in Texas

The Nature Conservancy (TNC) is the nation's largest and richest environmental organization, with 1993 revenues of \$278.4 million, assets of \$915.6 million, and 1994 government grants of \$28,167,119. While its reputation has been based upon quietly preserving private land for nature protection purposes, **TNC has also served as a conduit to sell private lands bought at "lowball" distress prices to the federal government at "above approved appraised value,"** as exposed in *Getting Rich* (Center for the Defense of Free Enterprise Report, September 1994). While the general public was absorbing that revelation, new investigations uncovered the fact that **The Nature Conservancy operates a large commercial and industrial real estate empire dealing in non-conservation "trade lands."**

As the facts of The Nature Conservancy's actual operations have come to light, growing opposition has forced the environmental organization to become overtly political, revealing even more of its true nature, **including the existence of a purely lobbying arm, The Nature Conservancy Action Fund.**

A particularly sharp controversy arose this year (1995) in the state of Texas, where TNC has enjoyed a privileged property tax status for 15 years.

THE NATURE CONSERVANCY'S PRIVILEGED TAX SUBSIDY

In 1979, the Texas Legislature completely rewrote the state's Tax Code. TNC's lobbyists used that opportunity to obtain a special favor: The "Miscellaneous Exemptions" section of the new tax code stated: **"The Nature Conservancy of Texas, Inc., is entitled to an exemption from taxation of tangible property it owns if the property is not held for gain as long as the organization is a nonprofit organization."**

With this special tax exemption on both real and personal property, TNC Texas was able to buy private property and hold it until the federal, state or local government could afford to buy it for public use. TNC Texas has transferred more than 286,500 acres of private property in Texas to government since 1965.

In January 1995, four members of the Texas House of Representatives filed a bill to repeal The Nature Conservancy's special tax exemption. The authors of the bill contended that TNC Texas had demonstrated that it was not a "purely public charity" and did not deserve a privileged tax subsidy from the State of Texas. The hearings on this bill brought to light a long history of questionable TNC activities.

CHARITABLE PURPOSE?

The Nature Conservancy of Texas, Inc., was chartered as a Texas non-profit corporation in 1964. Its articles of incorporation claim its was "organized for the exclusive purpose of promoting the public interest within the state, for strictly educational purposes, for purely public charity, and for the education of the public in the protection and conservation of fish, game and other wildlife, grasslands and forests; and it is organized exclusively for charitable and educational purposes."

However, The Nature Conservancy entered a real estate market that seems neither charitable nor educational. The market was the result of the Endangered Species Act (ESA), which requires that all landowners where endangered species or their habitat may be present must obtain a permit from the U.S. Fish & Wildlife Service under Section 10(a) of the ESA before any development may begin. The Section 10(a) permit is so prohibitively expensive that few individual

The Nature Conservancy's Tax Subsidies

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landowners have ever been granted one, and only the largest developers can afford them. The reason is "mitigation," the requirement that the landowner purchase environmentally-sensitive property and donate it for use as a preserve in order to obtain the Section 10(a) permit.

MITIGATION BROKERS

A ready supply of "mitigation" property is obviously crucial to developers who want to build in environmentally sensitive areas. In Travis County, Texas, where the endangered golden-cheeked warbler nests, real estate deed records show that industry giants 3M Corporation and Freeport McMoRan bought nearby "mitigation" property from TNC. When 3M Corporation built a new office complex in Austin, the U.S. Fish and Wildlife Service required the company to mitigate by donating 20 acres for each acre of land it developed. TNC was there with ready mitigation property for sale. Freeport McMoRan and a spin-off corporation called FM Properties, Inc., plan to build an upscale housing development in the heart of Austin's famous Hill Country. TNC was there with ready mitigation property for sale. TNC, Freeport McMoRan, and FM Properties, Inc., as well as Amcor Investments, all share the same registered agent.

TNC IN BED WITH THE RESOLUTION TRUST CORPORATION

How did TNC obtain so much mitigation property in prime Austin real estate? In 1991, the Resolution Trust Corporation (RTC) proposed to sell TNC 10,155 acres valued at \$190,997,991 for a purchase price of \$15.5 million, a subsidy of \$175 million. RTC would write off the residual book value of the assets, confirming the subsidy to TNC. However, the sale was contingent upon the approval of the Balcones Canyonlands Conservation Plan (BCCP), which required a 30,000 acre preserve to be created in the heart of the Texas Hill Country. The TNC's purchase of about 10,000 acres from the RTC would form the preserve's core. If the remaining 20,000 acres could be acquired, the U.S. Fish & Wildlife Service would issue a regional 10(a) permit and unrestricted development could proceed.

However, that additional 20,000 acres would be expensive, and its purchase required voter approval in a bond election. TNC donated \$50,000 to a committee in charge of promoting the plan, Texans for the Economy and Nature, and gave them another \$4,489 to pay for direct-mail postage. The bond election failed. Now other means had to be found to acquire the needed 20,000 acres. But TNC in 1994 went ahead with the purchase of 1,138 acres in Travis County from the RTC at bargain basement prices, which is how it had the "mitigation" property available for sale to 3M and FM Properties, Inc. The deeds are on record in the county office.

AND THE TEXAS PARKS AND WILDLIFE DEPARTMENT

TNC operates a sophisticated land mapping and inventory data bank called the Natural Heritage Program, showing private property, endangered species and habitat in great detail. TNC convinced the Texas Parks and Wildlife Department to adopt and fund their Natural Heritage Program. The executive director of the Texas Parks and Wildlife Department, Andrew Sansom, is a former TNC Texas executive. Through the Natural Heritage Program, targeted properties have already been inventoried. Using the Natural Heritage Program data bank, TNC was able to inform the U.S. Fish & Wildlife Service that 81-year-old Margaret Rogers was clearing brush from a fenceline on her ranch near Austin. The brush was potential habitat for the endangered golden-cheeked warbler, so the U.S. Fish & Wildlife Service threatened Mrs. Rogers with a \$50,000 fine and a year in federal prison if she continued to clear her fenceline. Unable to keep the brush from

The Nature Conservancy's Tax Subsidies

destroying her fence and letting her cattle loose, Mrs. Rogers found herself faced with U.S. Fish & Wildlife Service and TNC representatives routinely reminding her that if she should ever decide to sell her land, TNC would make her the best offer.

THE SKINFLINT CHARITY

In 1986, hundreds of miles from Austin, in sparsely populated Brewster County, in West Texas, TNC was deeded 56,362 acres, which it sold to The National Park Service in 1989. In 1987, TNC acquired and retained 10,000 acres of land in Brewster county. Thus, within two years, 66,000 acres was suddenly removed from the county's tax base, and a significant source of revenue for the school district was lost.

When the loss of tax revenue created a budgetary shortfall for the school district, school board and community members approached TNC to ask if it would contribute \$6,700 in lieu of taxes. Andrew Sansom, the executive director of TNC Texas, refused to make a contribution, saying "We don't have to pay any taxes and we won't volunteer to pay any." TNC owns an investment portfolio worth \$245 million, with \$138.5 million in common stocks, that could easily have provided the county schools with the pittance requested.

These charitable acts of The Nature Conservancy prompted the four Texas state legislators to call for an end to its special tax exemption. The repeal bill was referred to the Texas House Ways and Means Committee and a public hearing was held. TNC mobilized an army of lobbyists through its Nature Conservancy Action Fund to kill their repeal bill. TNC's current executive David Braun testified about what a worthy organization TNC was, and lobbyists for the industries that benefit from their relationship with TNC packed the meeting room. There was testimony from both sides, but the bill was sent to a subcommittee for further consideration. Lobbyists for industries needing ready "mitigation" property bombarded the committee members with faxes to applaud TNC. The bill died in committee.

However, under the Texas Constitution, almost all property must be taxed unless the voters approve a constitutional amendment authorizing the Legislature to exempt certain property. No such constitutional amendment has been passed. The Texas Attorney General's office has examined the TNC exemption and considers it unconstitutional. State attorneys are studying the TNC issue to see who has standing to sue for recovery of lost revenue, and who should be sued.

As TNC's facade crumbles, exposing its real inner functions as a pass-through for buying private property at distress-sale "lowball" prices, selling them to the government "above approved appraised value" and acting as an industry front group to acquire and sell them mitigation property, serious questions about the Endangered Species Act arise: Was it ever about protecting endangered species at all? Or were its little-known intricacies always about favoring the largest land speculators and the biggest developers?

Synopsis:

The Nature Conservancy has a special privileged exemption from tangible property taxes in Texas.

TNC has a lobbying arm called The Nature Conservancy Action Fund that mobilized overwhelming political clout in fighting efforts to repeal its property tax exemption.

TNC conducts a large "mitigation" brokerage operation that buys land for privileged prices, then sells it to large corporations so they may obtain development permits.

IRS determination letter for The Nature Conservancy Action Fund, dated July 18, 1990

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Ethics filing of Texans for the Economy and Nature showing The Nature Conservancy Action Fund \$50,000 loan

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Leveraged Incomes: Advocacy Groups Receiving Grants From The National Fish and Wildlife Foundation That Free Up Funds to Generate Controversy

The National Fish and Wildlife Foundation (NFWF) was created as a charitable and nonprofit corporation in 1984 by Public Law 98-244, the National Fish and Wildlife Foundation Establishment Act. The legislation specifically states that it is not an agency or establishment of the United States Government. The purposes of the Foundation are 1) to encourage, accept, and administer private gifts of property for the benefit of, or in connection with, activities and services of the U.S. Fish and Wildlife Service (USFWS) and 2) to conduct other activities that further the conservation and management of fish, wildlife, and plant resources. The intent was for the Foundation to develop private sector support of USFWS programs. The Establishment Act authorized no more than \$1 million of Interior Department appropriations for a ten year period beginning on October 1, 1984. The Establishment Act required NFWF to match each federal dollar with one from private sources.

In 1988, Public Law 100-240 increased NFWF's authorization to \$5 million annually, and allowed federal funds to be spent outside the United States. It also specified that NFWF had authority to acquire lands with federal funds.

In 1990, Public Law 101-593 increased NFWF's authorization to \$15 million for 1991, \$20 million for 1992 and \$25 million for 1993.

In 1994, Public Law 103-232 reauthorized NFWF for five years, Fiscal Year 94 through Fiscal Year 98. The law also authorized NFWF to work with the National Oceanic and Atmospheric Administration on marine conservation projects. The vote on PL 103-232 was controversial. On November 3, 1993, Rep Craig Thomas (R-WY), requested the first recorded vote ever on any NFWF authorization that had come to the House Floor, and 50 members voted NO. This legislation, H.R. 2684, also authorized a Wetlands Policy Center in Brownsville, Texas and the Walter B. Jones Center for the Sounds at the Pocosin Lakes National Wildlife Refuge.

In Fiscal Year 1994, Congress appropriated \$7.5 million for the NFWF. In FY 1995, Congress appropriated \$11 million for the NFWF.

THE NATIONAL FISH AND WILDLIFE FOUNDATION SHOULD BE COMPLETELY PRIVATELY FUNDED

Because of wealthy, prestigious and well-connected people on the Foundation's Board of Directors and Advisory Committee, such as James A. Baker IV (President Bush's Chief of Staff), Nancy N. Weyerhaeuser, Chuck Yeager, Marshall Field and Caroline Getty, the Foundation should be able to raise its own money. According to the Foundation's 1993 Annual Report, it received 31 percent of its revenues from the Federal Treasury, unlike other foundations of land management agencies started with seed money from the federal treasury that are now completely privately funded, a good example being the National Parks Foundation.

The National Fish and Wildlife Foundation's Leveraged Grants

A SPECIFIC NFWF GRANT THAT LEVERAGED THE GENERATION OF CONTROVERSY

On November 16, 1994, the NFWF Board approved a grant of \$180,000 (NFWF Share: \$60,000) to Pacific Rivers Council for the "Salmon Safe Program," an incentive program to encourage farmers in the Northwest to protect riparian areas in anadromous fish habitat. On January 9, 1995, Pacific Rivers Council and the Wilderness Society, represented by the Sierra Club Legal Defense Fund, went to court and obtained a decision from Honolulu-based U.S. District Judge David Ezra to halt all grazing, logging, mining and road-building activities in six Central Idaho National Forests to protect endangered salmon.

The grant from the National Fish and Wildlife Foundation had leveraged the ability of Pacific Rivers Council to generate controversy in the courts and bring economic disaster to 18 of Idaho's 44 counties. The cry of public outrage at the ban against virtually all economic activity in Central Idaho forced Pacific Rivers Council to back off and request Judge Ezra to lift his injunction for 45 days to give the USDA Forest Service time to fulfill the technicality of "consultation" as required by the Endangered Species Act, which was the crux of Pacific River Council's lawsuit.

Substantial public sentiment in affected communities has led to calls for NFWF to be denied further public funding.

A BOARD MEMBER OF QUESTIONABLE CHARACTER

Other peculiarities within the National Fish and Wildlife Foundation have led to calls for its removal from the public trough: The Clinton administration appointed Paul Tudor Jones, II, a wealthy Wall Street trader of the firm Tudor Investments, to the Board of Directors of the Foundation. All other members of the board are highly distinguished notables universally admired for their strength of character, such as General Chuck Yeager. Mr. Jones pleaded guilty to a misdemeanor in a notorious felony violation of filling wetlands on his 3,272-acre Tudor Farms site in Maryland and paid several million dollars in fines, donations and restoration. The case sent his contractor, William B. Ellen, to federal prison for six months, while Mr. Jones plea-bargained and bought his way out of jail.

The wetlands violation stemmed from August 1987 when Jones hired Mr. Ellen to develop "Tudor Farms," a \$7 million Maryland hunting lodge and grounds for the well-to-do. The plan included construction of 10 freshwater duck ponds and the planting of acres of crops and ground cover to create "duck heaven" for the benefit of duck hunters. Mr. Ellen, a conservationist with a long track record of environmental concern, insisted that migratory ducks not be hunted, and Jones agreed to the compromise of having the ponds cleared of wild ducks whenever Jones wanted to hunt, and having pen-raised, specially marked ducks released for hunters to kill. Mr. Ellen does not hunt. Ducks shot but not eaten by Mr. Jones and his guests were cleaned and shipped to a Baltimore Salvation Army homeless shelter.

In the process of building the freshwater duck ponds—on land so dry it had to be sprayed with water to keep the dust down—Mr. Ellen, a conservation biologist who had worked as a wetlands regulator himself in the 1970s, moved soil that filled "wetlands" as technically defined in a set of regulations recently promulgated by the Environmental Protection Agency. A year before the new regulations, the Tudor Farms job would have received conservation awards. However, the technical violation came to the attention of EPA bureaucrats working under a Memorandum of Understanding

The National Fish and Wildlife Foundation's Leveraged Grants

to find and prosecute “high profile” cases as a warning to “environmental criminals.” Mr. Jones, as a wealthy Wall Street trader, was a perfect target with deep pockets—he was reputed to earn over \$80 million a year.

When a Soil Conservation Service cease and desist order was issued to stop work on Tudor Farms because several loads of dirt technically violated wetlands regulations, Ellen left the site and never returned. On the basis of the cease and desist order and dirt movement, federal officials indicted him for wetlands violations. The Justice Department offered to reduce the felony charges against Ellen if he would testify against Jones. He refused on grounds of moral conviction: he felt that neither he nor Mr. Jones had done any wrong and that a jury would exonerate them both.

Jones was accused by prosecutors of failing to adequately supervise Ellen. He chose to plea-bargain. If things went wrong at trial, a felony conviction would cost him his Wall Street trading license. Jones paid a \$1 million fine to the federal treasury. Jones paid a \$1 million donation to the National Fish and Wildlife Foundation, which monies made their way to the Conservation Fund of Arlington, Virginia, to purchase Barren Island in Chesapeake Bay and sell it to the U.S. Fish and Wildlife Service for expansion of the Blackwater Wildlife Refuge. Jones was given 18 months on probation, required to sign a permanent binding agreement not to develop his property, lowering its resale value, and the court ordered him not to hunt for 18 months.

Bill Ellen was tried in U.S. District Court in Baltimore in December 1990. After four weeks of testimony showing that Mr. Jones had pled guilty to the same offense, the jury found Mr. Ellen guilty on five of six counts of wetlands violations on January 4, 1991. On April 15, 1991, Bill Ellen was sentenced to six months imprisonment, plus four additional months of home detention, and one year of supervised release.

The Fairness to Land Owners Committee, headed by Margaret Ann Reigle of Cambridge, Maryland, and representing more than 17,000 members, petitioned the Bush administration for a pardon for Bill Ellen. Environmental organizations rabidly demanded that Ellen serve his sentence. Ellen went to prison. Being a man of modest resources, Bill Ellen had no choice but to leave his wife and two children with no means of support while he served out his sentence.

Bill Ellen took the fall. Today he is a convicted felon, an “environmental criminal” struggling to start over and rebuild a shattered life.

Wealthy Paul Tudor Jones scapegoated Bill Ellen with a plea bargain and bought his way out of jail for the same wetlands offense. For his noble deeds, he was rewarded by the Clinton administration with appointment to the Board of Directors of the National Fish and Wildlife Foundation.

The presence of Mr. Jones as a director of a taxpayer subsidized foundation has led to further calls for the removal of the National Fish and Wildlife Foundation from the public trough.

Controversial Expenditures of Federal Grants: The Nature Conservancy's Florida Keys Lobbying Instance

The Nature Conservancy (TNC) obtained a 1993 federal grant in the amount of \$44,100 from the National Oceanographic and Atmospheric Administration (NOAA) ostensibly to support volunteer, outreach and public affairs programs for the Florida Keys National Marine Sanctuary. TNC employee Mary Enstrom received and spent the federal grant monies.

TNC's Mary Enstrom used the funds instead to:

- 1) **Draft testimony** for a Florida Keys mayor to deliver to a **U.S. Congressional Joint Hearing**.
- 2) **Draft testimony** for a Florida Keys Chambers of Commerce Federation president to give to a **Congressional Oversight Committee**.
- 3) **Help draft testimony** for a Tourist Development Council member to give to a **Congressional Hearing**.
- 4) **Help draft testimony** for a commercial fisherman to give to a **Congressional Hearing**.
- 5) **Organized an action operation that blocked a voter referendum** against the Florida Keys National Marine Sanctuary from getting on local ballots.
- 6) **Secretly planned and organized to block the voter referendum** with the Center for Marine Conservation and the Wilderness Society.

Synopsis:

Hidden influence: The Nature Conservancy used federal tax money to ghost-write testimony given to Congress.

Obstruction of the democratic process: The Nature Conservancy used federal tax money to keep voters from expressing their desire to stop the Florida Keys National Marine Sanctuary.

Collusion to obstruct the democratic process: The Nature Conservancy secretly enlisted the influence of the Center for Marine Conservation, which also receives federal government grants, and the Wilderness Society, whose former head is now a sub-cabinet officer in the Clinton Administration, to keep voters from expressing their desire to stop the Florida Keys National Marine Sanctuary.

New York Lawsuit Against Overpayments to The Nature Conservancy

Carol LaGrasse, president of the Property Rights Foundation of America, Inc., filed a lawsuit to force The Nature Conservancy (TNC) and the Adirondack Land Trust to refund part of the \$2,600,000 they received for 176 acres of isolated land they sold to New York State. The property in dispute is a steep, inaccessible, undeveloped tract on the east shore of Lake George.

Joining LaGrasse in the lawsuit is co-plaintiff John Salvador, a resort owner on Lake George. Their complaint asks the New York State Supreme Court in Albany County to determine the fair market value of the property and either declare the sale null and void, making a full refund due, or else to require the environmental groups to refund the difference between the fair market value and the amount they received from the State.

The plaintiffs argue that the State overpaid for the property, giving the land trusts a gift far above the appraised value, which is a violation of the State Constitution. They are seeking \$2 million in punitive damages.

The New York State Department of Environmental Conservation (DEC) is alleged to have paid \$2,500,000 plus another \$900,000 in interest and expenses to The Nature Conservancy and Adirondack Land Trust. The Nature Conservancy wanted \$3.5 million. The land was worth only \$1 million according to official DEC appraisals in April 1992. Subsequently a memo by State land purchase official Robert Bathrick referred to an appraised value of \$1,700,000 for the parcel.

The lawsuit alleges, among other charges, that the State reimbursed the two land trusts \$600,000 in interest paid on a mortgage, a cost the trusts did not expect, hoping for a quick sale to the state. The interest on the mortgage built up because voters defeated a \$2 billion Environmental Quality Bond Act in 1990, part of which was earmarked to pay for the Lake George parcel. The trusts were left holding the property longer than they had planned before selling it to the state. Normal expenses the State would reimburse include only taxes, appraisals and closing costs, the plaintiffs allege.

LaGrasse had helped to defeat that Bond Act with a lawsuit she brought with her husband Peter and associates Donald H. Gerdtz and Robert Schulz. The plaintiffs in that suit, filed in September 1990, stopped then-Governor Mario Cuomo from using taxpayer funds to promote a "yes" vote in the campaign.

Aside from the State Constitutional issue, this lawsuit highlights a fundamental question about these controversial sales of private land to governments using environmental land trusts as pass-through middlemen or real estate brokers. The corporate charters of The Nature Conservancy and other non-profit land trusts explicitly state that they are charitable organizations and exist solely for charitable purposes. The public expectation of a charity is that it will use member contributions to make gifts to the public, not involve the public in costly real estate deals.

Why is The Nature Conservancy *selling* its privately acquired land to the public rather than *giving* it to the public? The Nature Conservancy in 1994 received more than \$28 million from the taxpayers through government grants, which means that it is getting public money with which to buy private land in the first place, and then selling the land to the public, taking more money from the taxpayer. The Nature Conservancy is getting paid twice for the same land transaction. Congress must provide oversight and accountability for environmental groups receiving public funds.

Documentation

All factual information in this report was taken from public information, Freedom of Information Act requests, or published reports readily available to the journalist.

Most financial data were found in U.S. Internal Revenue Service Form 990 annual reports filed by the respective organizations under examination. Other sources include financial statements prepared by the environmental organizations and provided to the Secretary of State of New York, the Division of Consumer Affairs of the Commonwealth of Virginia and the Attorney General's Office of the State of California.

Information concerning Paul Tudor Jones, II, provided by The Fairness to Land Owners Committee, a national grassroots private property rights group headquartered in Cambridge, MD. The FLOC, who petitioned the Bush administration for a pardon for Bill Ellen, represents over 17,000 "mom and pop" members on wetlands and other property rights issues.

The Center for the Defense of Free Enterprise is the sole author of this report, and is solely responsible for the accuracy of the data here presented.

\$10.00

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The Center for the Defense of Free Enterprise was founded on July 4, 1976, by a coalition of concerned citizens to promote and defend the principles of the American free enterprise system. To that end, the Center for the Defense of Free Enterprise conducts many educational and legal action projects designed to better inform the public about the benefits of the free enterprise economic system. This report is one of a periodic series on the problems of free enterprise.

Additional copies of this report are available for \$10.00 from the address below. Questions concerning this report should be addressed to: Editor, "Feeding at the Trough." For more information, please contact:

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