

STORAGE NAME: h3603.ep

DATE: March 4, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
ENVIRONMENTAL PROTECTION
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HM 3603

RELATING TO: Biosphere Reserves

SPONSOR(S): Representative Posey

COMPANION BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) ENVIRONMENTAL PROTECTION
 - (2) RULES, RESOLUTIONS, AND ETHICS
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

HM 3603 opposes the Biosphere Reserve designation of the Man and the Biosphere Program (MAB), and urges the United States Congress not to ratify the proposed Biodiversity Treaty. The MAB program of the United Nations Scientific, Educational, and Cultural Organization (UNESCO) is based on the concept that it is possible to achieve a sustainable balance between the conservation of biological diversity, economic development, and maintenance of associated cultural values. Within the MAB program, biosphere reserves are established to promote and demonstrate a balanced relationship between humans and the biosphere.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Background

In 1987 the United Nations Environment Programme (UNEP) first called on the governments of the world to consider a legal instrument to conserve biological diversity and the sustainable use of biological resources. The Ad Hoc Working Group of Experts on Biological Diversity was established to research and analyze the most efficient ways in which to save our planet's biosphere. The UNEP then established the Intergovernmental Negotiating Committee for a Convention on Biological Diversity in order to negotiate and draft an agreement all nations could agree to. The final convention was adopted on May 22, 1992 in Nairobi just prior to the June 1992 United Nations Conference on Environment and Development known as the "Earth Summit". The convention provides for:

1. adoption of national regulations to conserve biological resources;
2. imposition of legal responsibility on countries for the environment impacts of their private companies in other countries;
3. technology transfer on concessional terms;
4. regulation of biotechnology firms;
5. access to and ownership of genetic material, and
6. compensation to developing countries for extraction of their genetic materials.

Overall, there are three main objectives to the convention: the conservation of biological diversity, the sustainable use of its components, and the fair and equitable distribution of benefits derived from "genetic resources" (defined as the diverse gene pool of life on earth). All contracting parties to the convention are thus required to enact regulations in order to conserve biological diversity for both present and future generations including the enactment of laws similar to the Endangered Species Act of the United States. All parties to the convention are also to promote "environmentally sound and sustainable development in areas adjacent to protected areas with a view to further protection of these areas."

Much of the convention focused on providing help to developing countries who had special needs. The help was to be provided by the industrialized countries through training, technology access and transfer, and funding.

BIOSPHERE RESERVES

The concept of biosphere reserves was initiated by a Task Force of UNESCO's Man and the Biosphere (MAB) Programme in 1974. Biosphere Reserves are areas of terrestrial and coastal ecosystems which are internationally recognized within the framework of UNESCO's (MAB) Programme. Collectively, they constitute a World Network. They are nominated by national governments and must meet a minimal set of criteria and adhere to a minimal set of conditions before being admitted into the World Network. The biosphere reserve network was launched in 1976 and, as of April 1996, had grown to include 337 reserves in 85 countries. The network is a key component in MAB's objective for achieving a sustainable balance between the sometimes conflicting goals of

conserving biological diversity, promoting economic development and maintaining associated cultural values. Each Biosphere Reserve is intended to fulfill three basic functions, which are complementary and mutually reinforcing:

- a conservation function - to contribute to the conservation of landscapes, ecosystems, species and genetic variation;
- a development function - to foster economic and human development which is socio-culturally and ecologically sustainable; and
- a logistic function - to provide support for research, monitoring, education and information exchange related to local, national and global issues of conservation and development.

Physically, each biosphere reserve should consists of three elements: one or more core areas, which are securely protected sites for conserving biological diversity, monitoring minimally disturbed ecosystems, and undertaking non-destructive research and other low-impact uses (such as education); a clearly identified buffer zone, which usually surrounds or adjoins the core areas and is used for co-operative activities compatible with sound ecological practices, including environmental education, recreation, ecotourism, and applied and basic research; and a flexible transition area, or area of co-operation, which may contain a variety of agricultural activities, settlements and other uses, and in which local communities, management agencies, scientists, non-governmental organizations (NGO), cultural groups, economic interests and other stakeholders work together to manage and sustainably develop the area's resources.

Some countries have enacted legislation specifically to establish biosphere reserves. In many others, the core areas and buffer zones are designated (in whole or part) as protected areas under national law. A large number of areas (such as national parks or nature reserves) and/or other international networks (such as World Heritage or Ramsar wetland sites).

Ownership arrangements may vary as well. The core areas of Biosphere Reserves are mostly public land, but may be privately owned or belong to non-governmental organizations. In many cases, the buffer zone is in community or private ownership, and this is generally the case for the transition area.

There are two Biosphere Reserves in Florida, the Central Gulf Coastal Plain, located in the Apalachicola Research Reserve, and the Everglades, located at the southern tip of Florida.

Issues

The Convention on Biological Diversity contained several controversial provisions. One troublesome aspect centered on providing help to developing countries through training, technology access and transfer and funding. It is this theme of the industrialized nations paying for these ambitious endeavors which has caused some concern. Additional concerns centered on the connection between the environmental aspects of the treaty and its trade impacts. It is thought that the association of biotechnology in relation to biodiversity may have far reaching trade implications. Biotechnology, as defined in the treaty, is any technological application that uses biological systems, living organisms, or

derivatives thereof, to make or modify products or processes for specific use. The convention states that "Each contracting party... undertakes...to provide and/or facilitate access for and transfer to other Contracting Parties of technologies that...make use of genetic resources and do not cause significant damage to the environment."

Furthermore, technology transfer to developing countries must be "under fair and most favorable terms," while providing for "adequate and effective protection of intellectual property rights" (Article 16). It is the fear that U.S. businesses would be harmed by the convention, particularly the booming U.S. biotechnology firms. Additional provisions of the treaty protecting genetic resources and underscoring the sovereign ownership of such resources also made the U.S. biotechnology and drug industries hesitant.

Former President Bush refrained from signing the treaty because he believed it left the U.S. unprotected with too many critical issues undefined. In 1993 President Clinton signed the treaty and it was sent to the Senate Foreign Relations Committee for a full review.

Several Senators, of the Senate Foreign Relations Committee, opposed the treaty. Their concerns center on the fact that the enabling and binding protocol for the treaty would be written after the Senate had ratified it. Furthermore, the treaty had no provision for additional Senate review once the protocol was written. Thirty-five Senators signed a letter to postpone the vote (treaties must be ratified by two-thirds majority). The ratification process was then postponed.

The Convention on Biological Diversity contains no implementing language and provides only a framework to protect biological diversity. The United Nations through the Global Biodiversity Assessment (GBA) was to define what form the enabling and binding protocol of the treaty would take.

When the GBA was released it used biocentric (nature centered) ideology as opposed to traditional Western anthropocentric (human centered) ideology as a basis for public policy and regulatory control to protect ecosystems and insure biological diversity. It also defined property rights as being not absolute and unchanging, but rather a complex, dynamic and shifting relationship between two or more parties, over space or time.

The UNESCO Biosphere Reserve and World Heritage Programs have been in existence since the early 1970's and occupy over 50 million acres in the U.S. The first goal of the UNESCO Seville Strategy for Biosphere Reserves is to, "Promote biosphere reserves as a means of implementing the goals of the Convention on Biological Diversity." Although these programs do not give the U.N. sovereignty over U.S. National Parks and Forests, in order to designate these sites, there is some question as to how this limits our sovereign right to then manage them.

One National Park located in Florida is included as a World Heritage Sites. The U.S. government invited the U.N. to participate in declaring both the Everglades and Yellowstone National Parks as World Heritage Sites *In Danger*. Everglades National Park was inscribed on the List of the World Heritage in Danger in 1993, and Yellowstone National Park in 1995.

Everglades National Park was inscribed on the List of the World Heritage in Danger after the Park's Superintendent informed the World Heritage Committee of extensive

damages to Everglades ecology due to nearby urban development, pollution from fertilizers, mercury poisoning of fish and wildlife, and a fall in water levels due to flood protection measures. In addition, on the 24th of August 1992, Hurricane Andrew altered much of Florida Bay and its ecological systems.

B. EFFECT OF PROPOSED CHANGES:

HM 3603 has no specific effect other than to urge Congress to oppose the Biosphere Reserve designation of the Man and the Biosphere Program, and that the proposed Biodiversity Treaty not be ratified.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

b. Does the bill require or authorize an increase in any fees?

N/A

c. Does the bill reduce total taxes, both rates and revenues?

N/A

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

N/A

E. SECTION-BY-SECTION RESEARCH:

This section need be completed only in the discretion of the Committee.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None

2. Recurring Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

4. Total Revenues and Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None

2. Recurring Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None

2. Direct Private Sector Benefits:

None

3. Effects on Competition, Private Enterprise and Employment Markets:

None

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

STORAGE NAME: h3603.ep

DATE: March 4, 1998

PAGE 10

VII. SIGNATURES:

COMMITTEE ON ENVIRONMENTAL PROTECTION:

Prepared by:

Legislative Research Director:

Barbara Snyder Clampett

Wayne Kiger