

Kansas State Senate

Special Committee on Foreign Adversary Investments and Land Purchases

Notes for Testimony by Nathan Descheemaeker

Policy of our Fathers

- Enabling legislation for statehood and local self-government
 - o Original Congressional Ordinances
 - Congressional resolutions in 1780, the Land Ordinance of 1784, and the Northwest Ordinance of 1787 laid the foundation of intent that all western lands were to be disposed to create distinct republican states, extinguishing federal title/jurisdiction to the public lands held in trust.
 - Article IV guarantee to the states a republican form of government
- Land disposal policy/private appropriation
 - o Homestead laws to the Multiple Use Sustained Yield Act and Federal Land Policy Management Act

Modern Conservation Policy

- Modern Biodiversity Initiatives/Landscape Conservation Initiatives
 - o Congress has not acted to codify landscape scale biodiversity objectives.
 - The environmental community has failed to adequately demonstrate that such commitments to biodiversity conservation is anything more than mere rhetoric, evidenced by the fact that Congress over the last twenty-five plus years has not enacted any laws which authorize let alone require far-reaching biodiversity conservation measures.
 - A super majority of the United States Senate rejected the ratification of the United Nations 1992 Convention on Biological Diversity which was signed and submitted to the Senate by President Clinton in 1993.¹
 - o “Land use is traditionally a matter of state and local concern, and an expanded federal role in this field will raise serious federalism concerns.” (Karkkainen, Cornell Law Review, 1997)
 - o United Nations 2030 objectives spelled out in the Paris Accord favor foreign adversarial interests.²
- Federal Climate Policy Agenda under EO 13990 and 14008
 - o Seeks to implement landscape scale biodiversity initiatives by executive edict without explicit Congressional delegation.

¹ [Key Treaties That Threaten American Sovereignty, Which the Senate Must Oppose During the Biden Presidency | The Heritage Foundation](#)

² Referring to Beijing’s strategic grip over UN agencies, US ambassador to the UN Linda Thomas-Greenfield told the House Foreign Affairs Committee, ‘They exert enormous influence in the United Nations, and it’s malign...[it is an] influence that promotes an authoritarian approach to multilateralism.’ (US to counter China’s ‘malign’ influence on United Nations, says senior official’ by Mark Magnier, South China Morning Post, 17 June 2021 at <https://www.scmp.com/news/china/diplomacy/article/3137583/us-counter-chinas-malign-influence-united-nations-says-senior>.) (see also Senate Resolution 98 passed by the 105th Congress)

- Poses vast transformative impacts on the economy and political process implicating “major questions.”³
- 30x30 Land Consolidation and Landscape Conservation⁴
 - Mineral Estate
 - Coal (powder river basin)
 - Monuments
 - Land withdrawals
 - Mineral lease cancelations
 - Perpetual conservation easements
 - Livestock grazing
 - ESA listings
 - Sage Grouse amendments (10 states)
 - Sage Grouse Focal Area Withdrawals
 - Apex predators and wildlife corridors
 - Wind and solar development
 - Other Considerations

General Recommendation for Further Investigation

- Identify Non-governmental Organizations (NGOs) conditionally working within foreign adversarial governments such as China.
 - 2017 Chinese Law regulating conservation organizations⁵
 - Many Domestic NGOs seeking to establish policy through the executive and judicial branches circumventing the legislative branch.
- Strengthen and reaffirm principles of home-rule and self-government as codified in the Federal and State Constitutions and laws passed in pursuance thereof.
 - Geopolitical boundaries constitute a sovereign jurisdiction for the purpose of local self-determination for tax-paying citizens.

Legislative Recommendations

- Revisit existing Kansas State Statute including the Kansas Private Property Protection Act
 - Review statutorily required checklist for state agencies to determine whether their actions have takings implications.
 - Consider how modern and novel land acquisition mechanisms and other processes which encumber private working lands may pose takings implications.
 - Consider improving or updating procedural safeguards to better protect private property from foreign acquisition and other processes which may encumber private working lands.
 - Encourage and support Kansas natural resource dependent counties to develop Natural Resource Policy to better secure local Home-Rule and protect the private property rights and interests of local tax paying constituency and local industries.
 - Federal statutes require consistency with local land use policy.
- Direct legislation prohibiting foreign adversary investments in lands and critical infrastructure in Kansas.

³ *West Virginia v. Environmental Protection Agency*, 597 U.S. ____ (2022)

⁴ [Biodiversity and Land \(cornell.edu\)](https://www.cornell.edu/biodiversity-land/)

⁵ [The Red and the Green: China's Useful Idiots \(thegwpf.org\)](https://thegwpf.org/)

- Montana Legislation prohibiting foreign adversarial investment in ag lands and critical infrastructure in the State.⁶

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⁶ Senate Bill 203, sponsored by Sen. Ken Bogner, R-Miles City [Governor Gianforte Bans Foreign Adversaries From Buying Montana Ag Land \(mt.gov\)](#)