

Property Rights Foundation of America®
Founded 1994

Property Rights: Long-Term Threats and Opportunities
Myron Ebell
Director
Center for Energy and Environment
Competitive Enterprise Institute
Washington, D.C.

Twenty-Third Annual National Conference on Private Property Rights
October 19, 2019

Well, thank you. It's a great pleasure to be here. Of course, it's always a great pleasure to get out of Washington, D.C., the source of all problems in the world although I find, of course, being in New York that there are other sources of problems called Albany and New York City. But it's still great to be here.

I want to say some nice things about Carol and the Property Rights Foundation of America but I just want to say I'm really touched by this award you gave me. Normally, I just get attacks and scorn and hatred so it's nice to... and it was a complete surprise. Thank you.

I said I was going to talk about long-term threats and opportunities for property rights but, of course, as we learned today and we always learn there's a lot more threats than there are opportunities. So, I want you to think of threats as challenges. And I think so saw from Doug [Piontkowski] and from Merrill [King] that when you take on a challenge you often have to have some success despite the forces and the powerful forces against you. I think those were really inspiring stories. I've learned a lot today. But one thing I've learned that sort of disturbs me is everything that is going on in New York, Upstate New York, rural New York. Why does anybody want to be a property owner in New York? This is kind of a mystery to me. I come from a state that is half federally owned. I grew up in Oregon that is fifty-two percent federally owned. You don't have that problem here. But, of course, you then have ten percent of this state that is state-owned land and most of that is up in the Adirondacks.

Property rights are really important. The right to private property is really important and I'm going to just touch on one or two of the aspects of why that's so. The fact that property rights and private property is so important is why what you all do is so important and what Carol does at the Property Rights Foundation of America. She's been just an absolutely fantastic ally over many, many years. She has done great work. I still remember some of the work that you've done, for example, what's wrong with conservation easements. You were one of the first people to actually, kind of take that on and say, "Hey, what's happening here?" I just want to congratulate Carol. Good work and keep it up.

The problem is the correlation of forces is against us. We have noticed that in the discussion over this bill up in the Adirondacks, well, they've got all the money. They have all the influence. What do we do about that? The fact is that it was noticed a long time ago. I think the first person who did it in a written form was the political thinker James Harrington back in the Seventeenth Century. James Harrington noted that the property ownership in England was changing. It was changing. The king, at one point, all the land was held from the king the lords of the manor. But then over time property rights were developed by regular people and they started to own parcels and the balance of power in England started to change because more and more people had something. And David Hume summed up James Harrington's observations by saying that the balance of power follows the balance of property. This is a very important thing. We always here about the American Revolution and that people like Jefferson and Madison were very strongly influenced by John Locke. In fact, Harrington was a much more important source. John Adams was the person who most clearly understood this. What Adams said was, and concluded, and I think that many of the Founders shared this necessarily the planners in Virginia who owned thousands of acres and hundreds of slaves, but the smaller landowners in the North, that the right to property is fundamental to liberty, to continuing our freedom because it puts power at the level of the people not at the level of the government or the big landowners.

One thing that we often leave out of this though, and Adams was very clear about this, is that not only is the right to property important but the widespread distribution of property ownership is very important. That is having lots of very large landowners is a very bad thing.

The problem we face isn't that there isn't still a lot of private property ownership widely distributed in the United States but that there's a huge amount of wealth that is no longer associated with property. It's called the joint-stock company or the modern corporation and most of the wealth of our country is no longer in land. That means it's controlled by an urban elite. This is a tremendous challenge for people in rural areas because what a book called *Eco-Imperialism* [*Eco-Imperialism: Green Power, Black Death*, Paul Driessen, 2006] it's a little more than that. It's urban eco-imperialism. And it's a little more than that because it's not the people at Willets Point who are the eco-imperialists, it's urban elitist eco-imperialism.

If you look at all the big environmental issues over the last forty or fifty years, in every case there's some big environmental group or groups funded generally by nature foundations usually derived initially from oil wealth like the Rockefellers or the Pews. These foundations convince the elites in our big cities that there's some problem out there that the poor yokels who live there aren't smart enough or good enough to handle themselves. That people in the Upper East Side of Manhattan and in Washington, D.C., know more about how to manage the Adirondacks than the people who live there. We find the most absurd example of this is ANWAR. Have you followed this at all, the debate over whether to produce oil from the Arctic National Wildlife Refuge in Alaska? This is a huge area. It's on the North Slope of Alaska. The oil footprint would be minimal and yet this has been the leading issue for the environmental movement in terms of direct mail fundraising for more than twenty years. And why? It's so far away that nobody knows anything about it. Nobody ever goes there. It's about eleven hundred people a year who visit this massive, multi-million-acre refuge. So, they can say anything they want about it and because they

have a huge megaphone they can convince the American public that somehow ANWAR is this treasure, this perfect place that is on the verge of being completely destroyed. That's the mythology. It's interesting that the Republicans who have been trying to open ANWAR for a long time, they actually succeeded at the end of the first year of the Trump presidency largely because, well, this is an aside, the Democrats wouldn't work with the Republicans at all on tax reform and the idea was they could defeat tax reform if they didn't provide a single vote in the Senate. So, when the Republicans put in it President Trump's suggestion put opening ANWAR into the tax bill there was nobody who could take it out and say, "Hey, the price of my supporting this bill is ANWAR." So, ANWAR got in there and the environmental groups were looking around like what happened here? They had no idea that this was coming because they hadn't thought this through very carefully. We lucked out.

I want to talk now actually about challenges that we have and some opportunities that I think we have. I think you noticed in your packet that I put in how much money the environmental groups have. There's also one on how much the phony right wing front groups have. It turns out... I should go back a bit. I think CEI [Competitive Enterprise Institution] is about a \$7 million a year organization. We work on the entire range of regulatory issues financial, labor anti-trust and so on. We have \$7 million. I think CPAC [Conservative Political Action Conference] is smaller than that. I think the National Center for Public Policy research is smaller than that. I think the Property Rights Foundation of America is even smaller than that. But you'll see now that the Left, the environmental establishment, and the big left-wing foundations that fund it, they now have so much money that they can fill every niche. They have the Evangelical environmental network. They have a conservative energy network. They have the Niskanen Center, the [unintelligible] Institute. All of these groups are front groups for the Left but they pretend to conservative or libertarian or free market. They're actually spending more money trying to subvert the Right than groups on the right are spending trying to promote their positions. That's where the correlation of forces is.

What is the goal of all this? This has been talked about several times today but I just want to summarize it. The goal of the modern urban elitist eco-imperialist movement is either to own all the land or to control all the land. The federal government owns twenty-seven percent of the country. It owns over fifty percent of the western states. What's the environmental condition of these lands? If you've been out west... Let me tell you what's happened in my part of the world in Oregon. The national forests have been closed to timber production. What's the result? The fuel builds up and the forests burn down. So, instead of management we have catastrophic fire. My family and our ranch suffered the consequences of that when our summer ranch was completely burned up. What the government doesn't own it wants to control. This is called commandeering. They want to commandeer your resources just as people were commandeered in the World War II, for example, to provide help for the war effort like we're going to take your truck. We're going to take your ship. We're going to take whatever it is we need to borrow it because we need to win the war. Commandeering now is going to be permanent. We're going to commandeer your land permanently to achieve the purposes of the government which are allegedly environmental protection.

What are the land-use controls that we have? I'm just going to hit the major ones. We've already talked about most of these. I do want to mention first that in 1970 the

Congress nearly enacted federal land-use controls. It was a very close vote. It was Sen. Henry Jackson of Washington's bill. It was very narrowly defeated in the House. It was supported by the Nixon Administration. Ever since then, ever since that defeat they have trying to figure out how to get de facto federal land-use controls. It's piecemeal. Instead of having one program, we'll put pieces in. What pieces? We've talked about them; The Endangered Species Act, Section 4 for wetlands regulation, National Trails, National Wild and Scenic Rivers, the historic preservation laws, the Coastal Zone Management Act, and we could go on. There are smaller programs but those are the main ones. Private land in this country is to a large extent, lesser or greater depending upon which statute you're under, is now being commandeered for an allegedly public purpose.

I want to say that I also didn't mention conservation easements, which at least you get paid on it. The problem with conservation easements is that most of them are perpetual. There's nothing wrong with the ten- or twenty-year or thirty-year conservation easement as Carol has written about but when it's permanent what you're saying is that we know best what's good for future generations. We know what the best value of this land is. Not only for us but for a hundred years from now. We know what the environmental conditions will be a hundred years from now better than the people living a hundred years from now what's needed for environmental protection. Conservation easements are really the Devil's work and I would point you at, if you aren't familiar with it, there's a national database that has about fifty or sixty percent of all the conservation easements are on it. It's a web site and it has a great map. It's called the NCED, the National Conservation Easement Database.

What are our opportunities or challenges? On federal land ownership the big challenge is that the federal government still wants to own more land. It owns twenty-seven percent but it wants to own more. There's this program called the Land and Water Conservation Fund which takes oil royalty offshore oil royalty revenues every year and devotes them to buy more land, both federal and state. This program is authorized at \$900 million a year and there's legislation in the Congress, which has strong majority support in the House and has forty-nine cosponsors in the Senate including six or seven Republicans. To make this not subject to appropriation, but to be a true trust fund so that the money goes automatically every year, \$900 million goes every year to buying land. Since the act was passed in 1964, the average that Congress has appropriated is between \$200 and \$300 million and a lot of that has gone to state recreation programs. Think about it. \$900 million to buy land forever. I've got a couple of handouts here. They were meant to be all stapled together but there are two. One is the bill with all of its sponsors and the second is sort of a fact sheet on the Land and Water Conservation Fund. I'm not expecting a lot of "no" votes on this legislation from the New York delegation. But I do think your Upstate people should be really concerned about this. Right? I mean it's too bad Jerry Solomon isn't still in Congress but you need to find some champions who can understand that government landownership is a real threat. That's the main threat I would see in terms of increased government landownership federally.

The other one is landscape conservation cooperatives. In the interest of time I'm not going to talk about this although I think they've been mentioned. One of the things is to create wildlife corridors to prepare for climate change.

There is an opportunity in federal landownership called the Utah Transfer of Federal Lands Act. This was several years ago Utah passed a law that was sponsored by a wonderful person that some of you may know, Representative Ken Ivory. Ken was a freshman state legislator and he convinced the legislature to say, "Hey, we're a state, too and we didn't get admitted to the Union under this Equal Footing Clause but we're not being treated the same as the eastern states. Give us our land." That is a very important initiative and it's been taken up as a national issue by something Ken founded and is now run by Jennifer Fielder a state senator from Montana. It's called the American Lands Council. I encourage you to look at their web site. The American Lands Council is doing great work in trying to turn government land into private land.

What are the main challenges on federal control or regulation of private land? I would say that climate policy is the biggest challenge we face. Because the attempt of the climatista, the global warming folks, is to use climate to seize control of, well, eventually everything, but let's start with the land. Luckily, we elected someone in 2016 who didn't agree with that and I would say that the Trump deregulatory agenda, it presents a tremendous opportunity for us because the whole goal of President Trump's agenda, the idea was if we deregulate, if we take the heavy hand of government off of our resource and energy and manufacturing industries they will actually spring back to life. Manufacturing will come back to Ohio. Not New York. Your taxes are too high. But there are other places it will come back. Your electric costs are going up too much because of climate costs. And I should mention one of the things and I should have put this into my talking more. It just occurred to me that I left it out.

My view of what's been going on in the last couple of decades is that, and you saw this very clearly with President Obama, he wanted to make the entire country conform to the economic model of New York City and California, which is financial services, high tech, stuff where you don't have to get your hands dirty. Right? He wanted everybody, in effect he once said and made it clear that he didn't consider a job where you had to do labor, manual labor, a real job. A real job is sitting in front of a screen manipulating information. It's being a lawyer or a stockbroker or a banker. That's what the urban elitists who are foisting these policies on us this really believe. They believe that everybody can be in a service industry like a bank or a stock broking firm or a venture capital firm. Actually, a lot of the country isn't really suited to that and moreover we still need stuff. If you look at the modern environmental movement, and you really see this with the Green Leap Backward, which is what I think the Green New Deal should be called: the Green Leaf Backward. If you really look at it and look at your wonderful representative Alexandria Ocasio-Cortez, whom I really respected, and I want you all to treat her very well. She's a tremendous resource for us. She doesn't know where stuff comes from. Paul [Driessen] went through this whole long list of all the stuff you need to build a windmill or a solar panel and you got to dig up... She doesn't know you've got to dig up stuff and you've got to make stuff and that growing stuff isn't just planting a few seeds in the ground and waiting for them to produce food. They just don't know where stuff comes from. So, the whole Obama and environmental movement goal to reduce the whole country to the model of New York City and Los Angeles and Silicon Valley is insane. It can't possibly work because even in New York City they still need stuff. They may not know it but they do need stuff. I think that the great thing that President Trump did during the campaign is that he realized and chrystallized an agenda that said, "No, if New York

and Silicon Valley and Los Angeles want to pursue this model, that's fine but it's not going to work for the rest of the country." And so, the whole deregulatory agenda is designed to arrest and eventually reverse the incredible decline that we found in small-town and rural America and in our manufacturing base, our resource industries across the country. I think you're already seeing that's happening. I won't go into the details of that but I'm pretty sure it is because there's some good statistics on that. I think that our opportunity is actually being provided to us, it's being lead by initiatives of the Trump Administration.

The most important of these is getting out of the Paris Climate Treaty. Larry [Kogan] talked about this. The Paris Climate Treaty, people say, "Oh, it's just an executive agreement. It's just voluntary." Well, the Hell it is! Once the United States signs an international agreement, whether the Senate has given its advice or not. A private citizen, one of these lawyers in the room here can go to court and say, "Hey, you've got to do this." A private citizen can enforce even an executive agreement, but certainly a treaty, against the federal government in federal court. Once we're sign onto the Paris Climate Treaty we're cooked. This is an incredibly important initiative. I would say that Bonner [Cohen] talked about ESA [Endangered Species Act] and WOTUS [Waters of the United States] reforms. I would just mention the more recent one. Was it two weeks ago? The President signed two executive orders reforming the use of guidance documents. Now, a regulation is one thing but a guidance document is when they sent you a letter saying, "Our interpretation of this regulation is that you can't do that. If you do that we may prosecute you." It's not a very accurate explanation of what a guidance document is but these things have proliferated. The Trump White House has said, "Nuh, uh." I encourage you to go and look up those two executive orders on guidance documents. They're very important. They could really change the course of the entire regulatory state.

I'm going to conclude now and I've probably talked longer than I meant to. There's one thing that I want to say about the White House. It's really fun dealing with the Trump Administration. Of course, I didn't deal with the Obama Administration or the Clinton Administration at all. It's really fun dealing with the Trump Administration compared to the dreadful Bushes because with the Bushes if you were a conservative and you didn't think they were doing what they ought to be doing, which was about ninety-nine percent of the time, they saw you as people who needed to be managed. It's like, well, we need their votes on the Conservative side but we've really got to keep them in a box and make sure that they don't cause any trouble. If you talk to the Trump people it's just very different. You can say "You guys that's fine but you're not going nearly far enough." The most common answer you get is. "Yeah, we know that. Help us go further." This is really exciting. There are some people who really want to turn things upside-down and shake them up and put them back together again. This is a huge opportunity for us and it will be, I believe, at least through January 2025 but, of course, you never know.

The other thing is that I think there is huge reason for hope and that's because the environmental groups, although massive as they are, they put all of their baskets, they put all of their bets on the global warming bandwagon. It took them some time. They resisted for a while. They said, "This is going to take away from our particular interest." But now everything is global warming. Right? Everything. Every environmental issue is now connected to global warming. Even the Audubon Society

has sold out. "Okay, windmills kill hundreds of birds but climate change will be much worse for birds. So, let's put up with it." This is really stunning what has happened. They put all of their bets on global warming. And yet they've had more than twenty years now since the Kyoto Protocol in 1997 to make some progress. They haven't made any. The Kyoto Protocol was never sent to the Senate for ratification. Cap and trade legislation was defeated. They lost the election.

There's only been three elections that global warming was ever featured. 2010 they lost the House because the Democrats passed cap and trade from the House. That's one. Did I say three? What's the second? I know the third. We'll leave the second one. I'll have to remember it. The third one was 2016. Gore never ran on global warming. Kerry didn't run on it. Obama didn't run on it. In fact, McCain was weighted a much more global warming guy than Obama. Romney with Obama it never became an issue because Romney was kind of green so he never brought it up. With Trump and Clinton the debate was engaged. And guess who won? Our side won, the people who don't believe that global warming is a global emergency. I think there's a huge amount of hope in this because they have built it up and built it up and built it up into such an immanent, (as they say, I hate this word) existential threat. It's now this thing that's only twelve years away and yet they can't pass any policies to do anything about it. They can't do anything to reduce global emissions but they keep making the threat bigger and bigger in the hope that things will turn around and suddenly we'll all say, "Oh yeah, let's turn our lives and our economy upside-down and impoverish ourselves for the next hundred years in order to do something about a problem that may or not be semi-significant in a hundred years from now."

We have, I think, a huge opportunity. If you look at the history of apocalyptic movements we're way up the curve on this. Apocalyptic movements get crazier and crazier and make more and more extreme claims that the end of the world comes. They start out by saying the end of the world may be a while from now we better prepare for it then keep bringing it closer and closer. "Oh, it's just a few months or a few days until the end of the world. Some of these crazy cults actually give a day for when the world is going to end and then when it doesn't, well I don't know. What do you say? "Well, it didn't happen." That's where we've gotten with these people. Apocalyptic cults tend to collapse very quickly once that bubble bursts. I think we have a huge opportunity there. The only thing I would say is, to go back to the correlation of forces, is that when you have this much money behind your movement and you've gotten corporations to buy into it because then they can make money off of higher energy prices, you have a huge, huge economic blob there that can keep pushing this even after everybody sees that there is no there there. So, I would say that I think we have a huge opportunity but I do think the bubble may not burst as quickly as it typically does, as it has in the past with apocalyptic movements.

With that I will just say thank you. It's been great to be here and it's been great to get to talk to as many of you as possible. I really appreciate everything you all do.

Questions?

Ms. LaGrasse: I like your remark about the apocalyptic movements. I follow apocalyptic movements especially with fundamental Christianity. You know I'm a Christian but it's kind of embarrassing. We had the Paul Erlich crowd. God, they shut

their mouths about that. We're all still alive and not starving to death and there are a few more like that. You can't predict the end of the world.

Mr. Ebell: CEI published on their web site on our open market blog a list of news clips going back to Paul Erlich in 1968. It's all of the apocalyptic predictions that have been made. Of course, all of them have turned out not to happen. If you just type into your browser something like "wrong again CEI" it will go to that blog or if any of you send me an email I will send that to you. My email is on that handout. It turns out that they have been predicting the end of the world since the late '60s. So far they've been wrong.

Ms. LaGrasse: I wonder if they'd be happy if the world ended? At least they'd be right then.

Mr. Ebell: There's a great satisfaction.

Ms. LaGrasse: Anybody else? Yes.

Audience member: One thing I'd just like to mention that I've noticed recently is we're now creeping away from the climate change into the climate crisis. It's not a change anymore now there's a change in terminology once again.

Mr. Ebell: In many countries and local jurisdictions they are now declaring, whatever that means, whatever the consequences for that are, that we are in a climate emergency. That's the other thing. And a climate emergency then means, for example, typically when regimes declare an emergency then they can have martial law. That's what you think about when you think of an emergency. It's a national emergency and therefore we have to suspend the usual way of doing things like people's rights and that kind of thing.

Audience member: Out West they do drought emergencies all the time. That invokes all the state power that the government [unintelligible].

Mr. Ebell: And then PG&E [Pacific Gas and Electric] just cut off people's power because they don't want to spark fires which are caused by... Paul said it was caused by forest but it's not just forests. A lot of California is chaparral, which *has* to burn. Right? It grows up when it's wet and then you have a year or two of drought and then it burns. If it doesn't burn it will cease to be chaparral and it will become a thicket. Then also like the Paradise fire was not forest. It was grazing land. They took the cattle off of the federal land around Paradise and the brush and the forage grew up and it was just tinder-dry. When it burned... A forest fire is a huge hot fire but a range fire is much quicker. It can be just like that [snaps fingers]. You know the whole town burned down.

Ms. LaGrasse: It's like if you start the little stove in the morning and put too much fuel in it. Wow! You've got to get your hand out of the way from that match.

Mr. Ebell: That's right.

Ms. LaGrasse: Any more questions? It's your chance. Well, thank you.

Mr. Ebell: Thank you, Carol.