Written by **William F. Jasper** on February 8, 1993

# Eco-Villains? No — Just Pawns in the Federal Land-grab Scam

His prison ID number is 27445037. His name is William B. Ellen. On November 30 of last year, alter losing a three-year legal battle that pitted him against the United States Justice Department, the FBI, the Army Corps of Engineers, the Soil and Conservation Service, and the Environmental Protection Agency, Bill Ellen entered the Petersburg Correctional Camp, a federal prison at Petersburg, Virginia.

In the closing days of 1992, thousands of petitions, letters, phone calls, and telegrams poured into the White House appealing to President George Bush to pardon Ellen. The pardon effort was organized by the Fairness to Land Owners Committee (FLOC) and Alliance for America, organizations networking with property owners groups nationwide to defend property rights. But the United States government had expended enormous resources — manpower, tax dollars, and political capital — to put this dangerous felon behind bars and President Bush was not about to release this menace to society at the behest of some motley, misguided letter-writing campaign.



What kind of heinous criminal is Ellen that authorities would decide to throw the full weight and power of the federal government into the effort to bring him down? A top lieutenant to Mafiosa don John Gotti or Colombian drug kingpin Pablo Escobar, you guess? Not even close. An Iraqi-paid assassin, mass murderer, car-jacker, or kiddy porn ringleader? Wrong again.

Ellen is not the kind of man one usually associates with “America’s Most Wanted.” But to the powerful environmental lobby that apparently controls the Justice Department’s prosecution priority list, the Bill Ellens of this world are vicious “environmental criminals” who rank in the “Public Enemy Number 1” category.

The 47-year-old eco-villain was convicted in January 1991 on five of six counts of violating Section 404 of the federal Clean Water Act by destroying wetlands without a federal permit. Truly dastardly acts deserving of the harshest punishment say the green crusaders. Yes, filling a wetland is very serious stuff these days. It conjures up ugly images of greedy capitalists bulldozing the Everglades, dumping tons of mercury into pristine riparian ecosystems, or paving over the last aquatic habitat of the snowy egret and the furbish lousewort.

But that isn’t what Ellen was doing. Indeed, Bill Ellen was *creating* wetlands. Yes, Bill Ellen was constructing a waterfowl sanctuary, complete with duck ponds, marshes, and wetland vegetation — on what was previously dry land. He was planning “to create duck heaven.” For this “crime” he is now serving time in the federal slammer — as a wetland *destroyer*. Confusing? As we shall see, there is very little in the absurdly convoluted and muddled federal wetlands policies that isn’t confusing.

Bill Ellen’s troubles started in 1987 when he accepted a job creating wetlands on the 3,200 acre Maryland estate of wealthy New York commodities trader Paul Tudor Jones. Jones had in mind to create, as the centerpiece of his estate, a 103-acre wildlife sanctuary that would attract and support geese, ducks, and other wildlife. Ellen, a conservationist and marine engineer, was hired to supervise construction of the waterfowl habitat on uplands that were so dry water had to be sprayed on the soil as a dust suppressant when work crews began moving dirt around. Ellen consulted frequently with local, state, and federal agencies, including the Army Corps of Engineers, the Soil Conservation Service, the Maryland Department of Natural Resources, and the Dorchester County Planning and Zoning Board. He

obtained over two dozen permits and hired environmental consultants to complete ecological surveys of the property to make sure no wetlands were filled.

In 1989 the Bush Administration redefined wetlands. Overnight the total "wetland" area in Dorchester County jumped from 84,000 acres to 259,000 acres. Virtually the entire county had been declared a wetland. The Army Corps sent Jones a cease-and-desist order for all work at the estate. On March 3, 1989, Army Corps official Alex Dolgas and Soil and Conservation Service wetlands expert Jim Brewer visited the Jones estate and ordered all work shut down.

Ellen immediately shut down all work at the sanctuary except for construction on the management complex, a three-acre site where a couple of houses and a kennel were under construction. He pointed out to Dolgas and Brewer that Brewer had inspected the area only a month previously and had agreed that it did not contain wetlands. Work on the complex was already behind schedule and Ellen was facing penalties from architects and contractors if he delayed further. Ellen told the two regulators he could have another wetlands survey done by an independent consultant within 48 hours and would shut down work on the complex if the survey showed that the area did indeed include wetlands. But he did not want to shut down and break contractual obligations, only to find that the federal government's fickle paper shufflers had goofed again. (As the judge presiding over Ellen's trial noted: "The fact that a government employee says a permit is required does not necessarily make it so.")

According to Ellen, Dolgas wouldn't accept the offer for a new survey and "got in a huff, jumped back in his truck and left." Ellen went to a phone and called the landscape architect who was the overall supervisor of Jones' project. After talking to the architect and reconsidering the matter, Ellen decided to comply with the Corps order. He told the foreman to halt the project. It was too late. Two truckloads of clean fill dirt had already been dumped on the dry ground of the work site. That was enough to cost Ellen his freedom.

A similar fate potentially awaits millions of property owners and contractors who have the misfortune to get stuck in the wetlands quagmire, a nightmarish political quicksand of ever-changing regulations, definitions, and rulings. There is not an actual federal wetlands law. The federal government claims jurisdiction over so-called "wetlands" under Section 404 of the Clean Water Act of 1972, which makes it illegal to discharge dredged or fill material into "the navigable waters of the United States" without first obtaining a permit from the Army Corps of Engineers. Federal authority over "navigable waters" is asserted under Article I, Section 8 of the U.S. Constitution. which grants Congress power "to regulate commerce … among the several States."

Wetlands were not even mentioned in the Clean Water Act. Regulation of wetlands has come through judicial and bureaucratic usurpation. In 1975 the District of Columbia Circuit Court of Appeals ruled in *Natural Resources Defense Council v. Calloway* that the 1972 legislation pertained not only to the nation's bays, lakes, streams, and rivers, but to wetlands that drain into those waterways. This sounds reasonable on the surface, since toxins dumped into wetlands draining into Section 404 waters might end up polluting our rivers. But it has provided an avenue for federal encroachment and regulation far beyond anything reasonably inferred from the wording of the law.

The Army Corps of Engineers defines "waters of the United States" to include "all waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce … tributaries [of such waters] … [and] wetlands adjacent to [such] waters."

But how does this apply to isolated wetlands? No problem. The federal regulators simply used ducks,

geese, and other migratory birds — "interstate waterfowl" — as their nexus for "interstate commerce." And since virtually any water hole is a potential habitat for these federally regulated feathered friends, the Corps' jurisdiction is expanded to cover every puddle in the country and its surrounding wetlands. Every time it rains, every time a river bank overflows, every time a farmer turns on his irrigation water, new regulatable "wetlands" are created. In fact, says Senator Jake Garn of Utah, "We are getting to the point where you won't be able to spit on the ground without the Army Corps of Engineers coming up behind you and declaring it a wetland."

But what constitutes a wetland? There is no political or scientific consensus today on what is a wetland, says attorney Mark L. Pollot, author of *Grand Theft and Petit Larceny: Property Rights in America*. "The term 'wetlands' itself is not a scientific term and only began appearing recently in scientific literature," Pollot told *The New American*. "But it is being defined and applied in outrageous ways by environmentalists, politicians, judges, and bureaucrats to deny property owners their rights guaranteed by the Constitution."

Under the Carter administration, wetlands were defined as areas flooded or saturated with ground water often enough that, under normal circumstances, they would support "vegetation typically adapted for life in saturated soil conditions." The definition emphasized that wetlands were limited "to only aquatic areas" — i.e. bogs, swamps, and marshes. That alone was a good-sized bite of new federal power.

But that didn't satisfy for long. Since then definitions have changed drastically and have extended Washington's jurisdiction over vast areas of dry land. Wetlands are now delineated by three highly elastic technical factors: hydrology (the wetness of the soil), the presence of "hydric" soil (usually soil with a peat, muck, or mineral base), and the presence of hydrophytic vegetation (plant varieties that tolerate standing water or waterlogged soil).

The land grabbers realized that the wetland vegetation parameters presented limitless possibilities. The Corps of Engineers, which is in charge of issuing permits for all activities on wetlands — with the EPA holding veto power — developed guidelines using a classification system of five plant types to help distinguish swamp vegetation from that found on dry land. It is those guidelines, which have evolved into a list of some 7,000 "indicator species," that have been used by the Corps and the EPA to wreak havoc with property owners. The vegetation guidelines were incorporated into the *Federal Manual for Identifying and Delineating Jurisdictional Wetlands*. This has provided the regulatory socialists with defining parameters sufficiently broad and arbitrary to claim jurisdictional control over not only every mud puddle in the country, but over completely dry land that could not be considered wetlands by the furthest stretch of the imagination. Eureka, bureaucrat heaven!

The EPA insisted on including "facultative vegetation" — plant species that appear in uplands as often as wetlands — as a wetland-defining parameter. The presence of Kentucky bluegrass, poison ivy, impatiens, ash trees, dogwood trees, or any of hundreds of other facultative species now provides the federal wetlands gestapo with sufficient cause to ruin your day — and your life. According to Robert Pierce, a former Corps of Engineers regulator who helped write the guidelines for Section 404, the vegetation parameters have been transmogrified into completely nonsensical and tyrannical policy. One of the most common facultative plants, he notes, is the red maple tree, which can grow in standing water — or on the top of a mountain! "What is being called a wetland," says Pierce, "is not functionally different from uplands."

The original 1989 *Wetland Manual*, says Dr. Jay H. Lehr, a world renowned water scientist, "condemns

as much as 300 million acres of mostly private property to a useless future in spite of the fact that it may appear high and dry to the 'untrained' eye."

Dr. Lehr warns that "the rank-and-file citizenry, which has often been willing to stand up for the rights of swamp critters, is being ambushed by the broad new definition of a wetland being fostered by environmental zealots. It is aimed far more at limiting the rights of the individual in favor of the higher causes of 'society' rather than actually giving two hoots for the native flora and fauna of our strange new dry, and often barren, 'wetlands.'"

Woe unto you if you should turn a spade of soil in a wetland without a federal permit from the Army Corps. No matter if that "wetland" happens to be in your wheat field, your drainage ditch, or your backyard. "In 99 percent of the cases that the Corps regulates, there is no threat of a true pollutant getting into drinking water," says Mark Pollot, who was a special assistant to the U.S. attorney general during the 1980s when these tyrannical policies were being developed. "Most often, the pollutant in question is dirt, and usually dirt dumped on the same land it was dug from." No matter. The U.S. Fifth Circuit Court of Appeals ruled in *Avoyelles Sportsmen's League v. Marsh* (1985) that a "redeposit" of soil from the same site may constitute an unlawful "discharge" under Section 404.

Such judicial malfeasance has allowed the eco-nazis to run wild. *Reason* magazine assistant editor Rick Henderson noted in a 1991 article that a "recent Army Corps ruling suggests that when owners pull tree stumps from their land, if any chunks of dirt fall from the stumps, that may constitute filling a wetland."

Or, for a real flight of fancy, try this incredible scenario: Suppose you're playing a game of sandlot baseball in your pasture, which by current definitions is deemed a wetland. You step up to the plate and, in typical baseball ritual, tap the dirt off your cleats with the end of your bat. As that trace of "hydric soil" hits the ground, an EPA-crat jumps out from behind a facultative shrub and cites you for a technical violation of Section 404 — "filling" without a permit. Ridiculous, you say'? Absolutely — but government policy nonetheless. According to the late Warren Brookes ("The Strange Case of the Glancing Geese," *Forbes*, September 2, 1991), that is the scenario defense attorney John Arens laid out for one of the EPA's experts during cross examination in a wetlands trial. Yes. admitted the EPA-crat, you would technically be in violation of the Clean Water Act!

You begin to appreciate the pickle Bill Ellen was in. For an even better appreciation, consider this courtroom colloquy on duck scatology between Judge Frederic Smalkin of the U.S. District Court in Baltimore and Charles Rhodes, one of the EPA's top wetlands experts and a star witness for the prosecution against Ellen. Judge Smalkin was puzzled. Is it not true he asked, that Ellen was replacing dry, forested "wetlands" with duck ponds?

"The sanctuary pond," replied Rhodes, "is designed to have a large concentration of waterfowl, and before the restoration plan was implemented, all that fecal material [from the ducks and geese] was geared to be discharged right into the wetlands, whereas now it is actually designed to go through like a treatment system through the wetlands. So that would have a negative impact, a water quality impact."

Judge Smalkin, not being a wetlands "expert," and, apparently, not sure he hadn't missed something in the explanation, asked incredulously: "Are you saying that there is pollution from ducks, from having waterfowl on a pond, that pollutes the water?"

To which the EPA's Rhodes replied: "Your honor, when you concentrate a large number of ducks —"

Judge Smalkin: “Have you ever been on the Eastern Shore, Mr. Rhodes’?”

Rhodes: “Yes, your honor.”

Smalkin: “Aren’t there ponds naturally that have large concentrations of ducks and geese?”

Rhodes: “Yes, your honor.”

Smalkin: “Are they polluted?”

Rhodes: “Your honor, a lot of those are tidally flushed.”

Smalkin: “A lot of them aren’t.”

Rhodes: “Yes, your honor.”

Smalkin: “Aren’t there a lot of fresh water ponds?”

Rhodes: “Yes, your honor.”

Smalkin: “And is it against the law to have ducks and geese on them?”

Rhodes: “No, your honor.”

You begin to see the precise science and complex nuance of these cases! So how did the government deal with this fragile ecosystem that was so delicate Bill Ellen had to be thrown in the slammer for building a few ponds that might encourage too many ducks to poop there? Why, the Army Corps simply brought in dynamite to blast a 400-yard channel to connect the offending ponds to the Atlantic Ocean’s salty brine in Chesapeake Bay, of course. Trouble is, that brilliant scheme backfired. Yes, the Corps’ eager beavers succeeded in blasting tons of the precious habitat to smithereens and raining dirt clods all over the surrounding area. But when the dust and smoke cleared the proposed “channel” had not materialized as planned.

So the government double-domes brought in a backhoe and other heavy equipment to finish the job. Just your typical sledge-o-matic solution from the we-know-what’s-best-for-the-environment bureaucrats. Like Procrustes, the mythical Greek figure who stretched his guests or sawed off their legs to fit his bed, the government had forced man and nature to fit its Procrustean dictates: Bill Ellen was in the hoosegow and the non-wet “wetland” was remediated.

To U.S. Attorney Breckenridge Wilcox, who headed the crusade to jail Bill Ellen, the conviction sends “a clear message that environmental criminals will, in fact, go to jail.” Indeed, he said, “those who commit criminal environmental insults will come to learn and appreciate the inside of a federal correctional facility.” The government wanted a prison term of 33 months, but Judge Smalkin sentenced the “scofflaw” to the minimum term allowed under the congressionally-mandated sentencing guidelines: six months in jail, four months of home detention, and one year of supervised release.

Bill Ellen is hardly your typical eco-villain. A lifelong conservationist and environmentalist, Bill and his wife Bonnie have run a nonprofit animal rehabilitation center called Wildcare on their seven-acre farm in Mathews County, Virginia since 1986. They have saved over 2,000 injured ducks, geese, hawks, eagles, egrets, deer, and other animals. They were contributors to Greenpeace, the World Wildfire Fund, the National Wildfire Federation, and the Audubon Society. Until she became a mother, Bonnie ran the county’s humane society. To support his family and the always growing menagerie of nature’s unfortunates, Bill has worked as an environmental consultant. For several years prior he worked as a state wetlands regulator.

Bill's incarceration means both economic and emotional hardship for Bonnie and the couple's two young sons, but she's "sure that we'll make it through," she told *The New American*. Volunteers from throughout the county are helping with the animals. Friends, family, and total strangers have helped with important moral support. "My husband pays for all our animals' feed and some of it, like the fawn's milk, is very expensive. Without Bill's income it's very tough." Then there's the mortgage and legal expenses, of course.

But Ellen's punishment is not as severe as that meted out to fellow enviro-criminals John Pozsgai or Ocie and Carey Mills. Pozsgai, a sell-employed mechanic, was sentenced to 27 months in prison and a fine of $202,000. His crime: cleaning up thousands of tires and rusting car parts that littered the property he had bought for the purpose of building a new repair shop. After removing the tons of junk, he spread clean fill dirt on part of the site, an activity that state officials told him required no permit. But federal officials said the presence of "skunk cabbage" and "sweet gum trees" made it a wetland. He spent nearly two years in Allenwood Federal Prison for his "crime." Now out of jail, John Pozsgai must still battle the envirocrats to get permission to build on his own land.

"It's destroyed our business, it's been absolutely devastating to our family, financially and emotionally," Pozsgai's daughter, Victoria Pozsgai-Khoury, said of the prolonged struggle in a recent telephone interview with *The New American*. "No American family should have to go through what we have gone through." The experience sorely tried Mr. Pozsgai's faith in the American system of justice, one of the attractions that had led him to flee to this country from Hungary in 1956.

"When you put dirt on top of dry dirt in your own back yard, where the water table is nine feet below the ground and they throw you in prison, what kind of justice do we have?" Mrs. Pozsgai-Khoury asks. "My family escaped from a communist country where the government can take your land away and came to America where that kind of thing is not supposed to happen. It's as though the government is trying to make it impossible for the private citizen to own property, or to enjoy the freedom and prosperity that comes from owning your own land."

"All we have been saying," says Pozsgai-Khoury. "is 'No confiscation without compensation,' which is what the Fifth Amendment of the Bill of Rights guarantees us." Indeed it does. The "supreme law of the land," which every public official swears to defend and protect, declares: "No person shall be … deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation."

Under American constitutional law, if the government has a compelling need for land — for, say, a military base or a prison — it may exercise its power of eminent domain and compel an owner to sell, but the owner must be paid a "just compensation."

With the rise of environmental regulation, government "takings" have taken on new meaning. In most instances the enviro-regulators do not take private property outright. But they often regulate its use so tightly that it becomes unusable to the owner. Designations of private property as wetlands, endangered species habitat, natural landmark, or national park land are prime examples of this kind of taking.

Fortunately for property owners, some long-awaited judicial relief came last year with the U.S. Supreme Court's ruling in the case of David Lucas. In 1986 Lucas purchased two lots in coastal South Carolina. In 1988 the state's new coastal zoning law effectively barred him from building any structures on his property. Lucas filed suit against the state seeking compensation for the lots' purchase price under the

Fifth Amendment's takings clause. In a landmark decision on June 29, 1992. the U.S. Supreme Court ruled in favor of Lucas.

Justice Antonin Scalia, writing for the Court, said in the decision, "affirmatively supporting a compensation requirement, is the fact that regulations that leave the owner of land without economically beneficial or productive options for its use — typically, as here, by requiring land to be left substantially in its natural state — carry with them a heightened risk that private property is being pressed into some form of public service under the guise of mitigating serious public harm." Property rights advocates have justly hailed the Lucas decision as a great victory, but recognize that it is only a battle in a long war that currently involves millions of real and potential casualties — property owners whose livelihoods and life savings are at stake.

In the case of Ocie and Carey Mills, the father and son team was sentenced to 21 months in the penitentiary and fined $5,000 for cleaning out an existing drainage ditch and placing fill dirt on part of their half-acre parcel of land in Santa Rosa County, Florida. Their activities had been authorized by the state Department of Environmental Regulation and constituted no threat to man or nature. The state DER said the area they were filling, to build a house for Carey, was uplands. The Army Corps said it was wetlands.

The Millses finished their prison term in November 1990. But their ordeal wasn't over. In March 1991, the government went to court claiming the Millses had not restored the property within 90 days of their prison release, a term of their probation. The Millses claimed they had complied. The judge sided with the defendants. He noted that the Corps-mandated "restoration" had left the lots in question "totally denuded and ugly" and that further "restoration" as demanded by the Corps would destroy the property's value.

In his ruling in *United States v. Ocie Mills and Carey C. Mills*, Judge Roger Vinson of the U.S. District Court for the Northern District of Florida wrote:

> After having heard all of the evidence and having personally inspected Lot 20, I find that the elevation of Lot 20 is now at, or in some instances, below, the elevation as it existed in December of 1985. The Government's contention that ten more inches of soil need to be removed from Lot 20 would result in turning Lot 20 into a pond, an undesirable condition. The lot is now totally denuded and ugly, in stark contrast to the beautiful lot that existed prior to 1986. Although there are detectable amounts of clay remaining on the lot, I find that the defendants have met the requirements of the site restoration plan insofar as it applies to the elevation.
>
> The ditch lying between Lots 20 and 19 is now a stagnant pond. It needs to be further filled, and allowed to function as a natural drain into East Bay.... In sum, however, I find that both defendants have substantially complied with the site restoration plan which was required as a condition of their supervised release. The petition for a finding of a violation of their supervised release condition is, therefore, DENIED.

"God works in mysterious ways," Ocie Mills said after Judge Vinson's ruling. "And I hope in some ways he uses my misery and the ordeals I've put my family through in the best interest of preserving freedom and property rights throughout America." But the Millses' tribulations are not over yet. After their court victory the Army Corps issued still another cease-and-desist order to keep the persecuted property owners from continuing work on their land. The State DER also sued them. The courts ruled against the state. Florida appealed and lost again. Ocie and Carey are now pressing a $25 million civil lawsuit

against the federal government and are suing to have their criminal conviction (for which they already served the time) set aside to clear their records.

As one might imagine, the Mills family has paid a heavy price. "It totally destroyed us financially since it put both breadwinners in jail," Ocie Mills told *The New American*. "And all the while, of course, the government was able to use our tax dollars against us." The family has been continuously on the verge of losing their home. "Our banker has been very good and understanding of our situation and worked out an arrangement for us just to pay the interest," says Mills. While they were in prison they were able to get by ("just barely") though a number of times they missed even the interest payments. "We've been just a step ahead of foreclosure, hanging on by the skin of our teeth, you might say."

To the thousands of members of property rights organizations across the country, the Ellen, Mills, and Pozsgai families are heroes, and symbols of the injustice that landowners all too often face when confronted by federal land use policies. But to government eco-zealots such as Lance D. Wood, assistant chief counsel for environmental law and regulatory programs for the Army Corps of Engineers, they are "egregious scofflaws" who deserve no sympathy. At a San Francisco conference on "Regulatory Takings" sponsored by the Pacific Legal Foundation last year, Wood unblinkingly defended the government's hounding of Ellen, Mills, and Pozsgai. "The fact is," said Wood, "that criminal prosecutions are only brought against the most egregious scofflaws, individuals who repeatedly, flagrantly thumb their noses at the law."

Moreover, said the Corps' attorney, "my study of the Pozsgai case, Bill Ellen's case, the Ocie Mills Case, the universal rule seems to be that only when these individuals perform as scofflaws, thumbing their nose at the law, and in the case of some of these individuals, defying federal court orders that they stop illegal fill activity, do they receive federal prosecution and the judges throw the book at them." "So how much sympathy you want to have for people who virtually invite this kind of criminal action is up to you," Wood continued. "But from what I've seen of these cases, for their own ideological reasons [they have] brought this kind of prosecution on themselves. They have taken this kind of illegal and irresponsible actions [sic] and they must face the consequences."

Those who take the time to study the above cases and many similar ones across the country are more likely to conclude that it is government officials such as Wood who are the egregious scofflaws, thumbing their noses at due process and the rights of law-abiding, tax-paying citizens. And Wood's colleagues in the Justice Department who are throwing Americans into jail for alleged violations of these idiotic regulations know that they are involved in an enormous scam. Evidence of this knowledge includes a January 1989 memorandum from Assistant U.S. Attorney General Stephen Markham concerning one of the government's wetlands cases. After repeatedly admitting that federal wetland policies are built on legal quicksand, the memo concluded: "The Corps and the EPA appear to have circumvented the Constitution's requirements … and the federal and circuit courts have not corrected them."

The Army Corps and the EPA would have you believe that the Ellen, Mills, and Pozsgai cases are rare exceptions, that most landowners breeze through the permit process without a hitch. The permit process has been streamlined and 95 percent of applications are approved, officials claim. Journalists accept these statistics uncritically and parrot them to show that wetlands policies are not as onerous as property owners claim. Have the bureaucrats streamlined the process'? "In their imaginations only," says Victoria Pozsgai-Khoury, who has become an outspoken leader in the property rights movement. "For the average property owner it's practically impossible to get through the maze."

Margaret Ann Reigle agrees. When Mrs. Reigle retired as vice president of finance at the *New York Daily News* and moved with her husband to Dorchester County, Maryland, becoming a crusader was the furthest thing from her mind. But when she saw the devastating effect of the wetlands policies on her neighbors, she rounded the Fairness to Land Owners Committee to fight back, help landowners, and lobby Congress. Since its beginning on July 3 of 1990, the group has attracted 11,000 members — "abused landowners" — from 45 states. "Most of our members — probably 90 percent — are wetlands cases," she says. And that is just the tip of the iceberg. Property rights groups have sprung up in every state. Faced with this growing rebellion, EPA chief William Reilly admitted in March 1991: "Everywhere I traveled I heard a local wetlands horror story — not just from farmers, but from developers and respected political leaders."

Those who are hoping for regulatory relief from Reilly's replacement, Carol Browner, should talk to Ocie Mills. As head of the Florida DER she was anything but a champion of property rights. That Clinton reportedly named her to the top EPA post on the recommendation of her "good friend," Vice President Al Gore, should also speak volumes about her deep green bonafides.

The opportunity to abolish the wetlands gestapo is quickly approaching. One of the issues likely to be scheduled for early consideration in the new Congress is reauthorization of the Clean Water Act. The preservationist fanatics will be lobbying mightily for far more stringent and abusive "wetland protection." The Capitol should be *swamped* with letters and telephone calls from earnest constituents demanding that their congressional representatives get Washington out of the wetlands regulatory business altogether.