



U.S. SENATE COMMITTEE ON

Finance

SENATOR CHUCK GRASSLEY, OF IOWA - CHAIRMAN

<http://finance.senate.gov>

For Immediate Release
Thursday, July 17, 2003

Grassley Seeks Answers on Nature Conservancy Donations, Deals

WASHINGTON – Sen. Chuck Grassley, chairman of the Committee on Finance, with the committee’s ranking member, Sen. Max Baucus, has asked The Nature Conservancy a series of detailed questions about the group’s practices. Prompted by an extensive newspaper examination, Grassley said his concerns include the tax implications of The Nature Conservancy’s activities.

“People who donate property and dollars to help protect the environment deserve to know The Nature Conservancy won’t betray them,” Grassley said. “In addition, taxpayers deserve protection from abuse of the favorable tax treatment that’s given to these kinds of charitable donations. The tax code contains many incentives to encourage giving. Those same incentives also create opportunities for abuse. Our goal in asking these detailed questions is to shed daylight on what’s happened so we can hold the bad actors accountable and prevent wrongdoing in the future.”

The text of the Grassley-Baucus letter follows.

July 16, 2003

Mr. Steven J. McCormick
President and Chief Executive Officer
The Nature Conservancy
4245 North Fairfax Drive
Arlington, VA 22203-1606

Dear Mr. McCormick:

The recent articles in the *Washington Post* regarding The Nature Conservancy (TNC) posed serious questions about TNC’s practices regarding land sales, purchases, and donations; executive compensation; and corporate governance, among others. In addition, the Finance Committee has begun its own independent review that has found additional areas of concern. Given TNC’s varied roles as government grantee and vendor, as well as its status as a tax-exempt organization, we, as Chairman and Ranking Member of the Finance Committee, seek answers and information about certain of TNC’s policies and practices. We appreciate your repeated assurances of cooperation as

the Committee seeks to review TNC documents, filings, transactions and other related material relating to the following TNC programs and practices.

1. Conservation Buyer Program

The May 29, 2003 letter to Congress from TNC has an attachment that provides a description of TNC's "Conservation Buyer Projects" (CBP). In it, the TNC states that since 1990, 220 parcels of land have been sold under the CBP program.

Please provide, for each CBP transaction within the last 10 years, the following: the description and location of the relevant property; the dates of TNC's purchase and sale of the land; TNC's purchase price and its sale price for the parcel of land; the terms of the easement or other property limitation imposed on the property by TNC; the individual(s) or entity(ies) that sold the property to TNC (including SSN or EIN); the individual(s) or entity(ies) that purchased the property from TNC (including SSN or EIN); any relationship, past or present, of CBP buyers or sellers with TNC or its subsidiaries or affiliates; any donations or contributions totaling at least \$1000 made by a CBP purchaser or seller to TNC or its related organizations within two years of TNC's sale or purchase; all appraisals of the property, including appraisals made prior to TNC's purchase of the land, after an easement or other restriction was imposed, and at or after the point of sale to a CBP buyer; any analysis in the possession or control of TNC or its related organizations regarding the tax treatment of the sale or purchase; Form 8283: "Noncash Charitable Contributions" for both purchase and sale, where applicable; and, Form 8282 "Donee Information Return," where applicable.

Please provide all information that TNC has in its control or possession regarding any transactions with Mr. Jerry Jung, Mr. and Mrs. James Dougherty and the Wallace Family.

Please confirm that CBP is the sole program by which TNC or its related organizations have sold to non-government entities land, interests in land, or water rights that are subject to a conservation easement or option of conservation easement. If there are other programs by which TNC or its related organizations has sold to non-government entities land, interests in land, or water rights subject to a conservation easement or option of conservation easement, please describe these programs in detail. In addition, please discuss any other programs other than CBP, sales to government, Trade Land or purchase of easements in which TNC purchases or sells land or interests in land.

Lastly, the Board of Governors announced on June 13, 2003, that all CBP transactions must be "legally documented as part of the transaction." Please explain specifically what that means and what information will be made available to the public and the IRS.

2. Government

It is our understanding that TNC sells or exchanges land or interests in land to local, state and federal government entities. For example, in its most recent Form 990 filing, TNC reports \$181 million in income from government sales.

Please provide a list of all land or interests in land sold or exchanged by TNC or its related organizations since January 1, 1998, to local, state and federal government entities. This list should include a description and location of each property; the date of TNC's purchase and sale; the amount TNC paid for the property (note if the seller considered the sale to be a bargain sale and please provide a Form 8283 for any bargain sale or gift as well as the Form 8282 where applicable); the appraised value of the property at the time of TNC's acquisition of the property and at the time of the sale (including proof of compliance with federal appraisal standards); the individual or entity that sold/donated the property (include SSN/EIC); the amount for which TNC sold the property; the amount (together with all appraisals) that TNC determined was the value of the property for purposes of Form 990, (e.g., in Part II, line 43 TNC listed in "Statement 8" of the 2002 Form 990 line items for "Cost of Goods Sold to Govt. - Cost" and "Cost of Goods Sold to Govt. - Gift" – (please also provide a description of what these two terms reflect); the government entity that purchased the property; and the specific source of funding that enabled TNC to purchase the property (for example, a charitable contribution from an individual; a government grant/contract; grant/contract from corporation or a nonprofit organization, etc.). Finally, for each year, please provide the total amount of income from such sales, a detailed breakdown of expenses direct and indirect related to the sales and the amount of net profit from the sales.

Please provide a list including dollar amount, brief description of purpose and identification of each grant, contract, appropriation or other financial benefit to TNC conferred by a government agency (and program, example North American Wetlands grant awards, Forest Legacy Grant awards) since January 1, 1998. In addition, please provide a similar listing for grants and contracts received from or given to the National Fish and Wildlife Foundation; the National Forest Foundation; and the National Park Foundation since January 1, 1998.

3. Trade Land

TNC has a program called "Trade Lands" that targets donations or below market sales of land by corporations and individuals for resale by TNC. Please describe in detail this program, including the number and value of gifts from corporations and individuals. Please list the ten largest gifts received (by dollar value of the claimed charitable donation) per year under this program since January 1, 1993 along with the Form 8283 and Form 8282 (where applicable). If there is no Form 8282, please provide the total amount the property was sold for, the date it was sold and identify the party who purchased the land.

4. Loans

A. Employee. Please list all loans provided to officers, federal and state board members, employees, donors, TNC contractors and TNC related organizations. Please provide the loan terms (including security and value of the security), date of issue, current status, name of loan recipient and EIN/TIN. Please provide the dates and amounts of repayment and whether there was any forgiveness of the loan.

TNC provided a home loan of \$1.55 million with a 1-year adjustable interest rate at 4.59 percent to Mr. McCormick. TNC states that this rate was "based on outside advice as to what a

market rate would be.” Please provide a copy of that advice. TNC states that recently Mr. McCormick has refinanced the loan with a commercial lender. Please provide a copy of the loan terms and contract.

B. Other Loans. TNC in its 2002 Form 990 reports the \$1.55 million loan to Mr. McCormick. TNC Form 990 also discloses \$26.1 million in other loans. The return provides a thumbnail description of these loans. Many of these loans are to for-profit entities or individuals. Please provide a description of all loans made (or receivable) to individuals or for-profit entities for the past ten years and include a description of any relationship between the company (including officers and directors) or individual with TNC. This description should include the original purpose of the loan, whether that purpose was met, the interest rate and payment schedule when the loan was made, the security (and value) for the loan and whether there were any changes to the terms of the loan.

Please describe in particular all of the above loans that have a 0% interest rate and all loans that defaulted or in which there was partial or full loan forgiveness. Please describe the process of TNC in approving loans, how the interest rate is determined and the material that is prepared in support of such loans.

For all loans above in A and B, where applicable, please describe how TNC and the individual complied with Section 7872 of the Internal Revenue Code: Treatment of loans with below-market interest rates. Please provide copies of all related TNC filings with the Internal Revenue Service.

5. Internal Reports, Audits and Studies

Please provide the name and contact information for the lead partner for TNC external audits since January 1, 1998. Please provide copies of all draft or final external and internal audits, evaluations and reviews conducted by or for TNC or its related organizations since January 1, 1998. In particular, please provide any such material that reviews, discusses or relates to payment of taxes (including payroll) of TNC or its related organizations, TNC or its related organizations’ employees or contractors as well as any material that discusses the tax situation regarding donors, sellers, buyers or other recipients.

6. Easements

Please provide a copy of the December 4th, 2002 memo cited in the *Washington Post* that states:

“If you look at our revenues from last year, they’re up from the year before, mostly due to the valuation of easements, which can be viewed as subjective and a tool we used to inflate our income.”

Please provide all other information in TNC’s possession or control related to that teleconference that is discussed in the December 4th memo.

In addition, for all easements above \$25,000 (as valued by the donor or purchase price) please provide a list valuing all easements purchased by or donated to TNC since January 1, 1998, including the dollar amount of the easement, where the land was located, and the identity of the donor or seller. Please note all easements purchased or donated that involved officials, governors, or trustees of TNC or its state affiliates.

7. Board Membership and Organization

Please provide a current list of all officers, directors, board members of TNC (state and national) or its related organizations. In addition, please include the current reorganization chart and bylaws of TNC and any related organizations. Please include a list of all other for-profit and non-profit organizations that these individuals serve as employees, officers, directors, board members or similar capacity.

Finally, please provide a list of all TNC (state and national) board and staff who serve on federal and state government boards. Please note those federal and state boards that award grants or contracts to TNC.

8. Executive Compensation

Please provide TNC's Form 990 for the last 10 years. In addition, please provide the minutes of the Compensation Committee or Board of Governors meetings relating to compensation (including loans) for officials listed in Form 990 since January 1, 1998, as well as all employment contracts for these individuals. Please provide a detailed discussion, including value, of any deferred compensation programs that TNC or its related organizations operates for any of its employees.

9. President's Discretionary Fund

The Committee would like information regarding the policies and procedures with respect to the President's discretionary fund (and its successor the Quick Strike Fund). Please explain how funds become part of the discretionary fund; whether there are or have ever been any limitations on the amount of money in the discretionary fund; who can authorize the fund's use; and any limits on the use of the funds. In addition, please provide all yearly statements indicating the amount of money in the fund since January 1, 1993, and an accounting of the fund's use since January 1, 1998, including a description of each withdrawal; for what purpose the withdrawal was made; and the names of the recipient (please note any relationship to TNC). Please provide the source of funding for the discretionary fund year-by-year since 1993.

10. Major Donations/Sales/Exchanges of Land

Please provide since January 1, 1998 year-by-year the top ten donations by value (including bargain sales) of land to the TNC or its related organizations. Please provide the EIN/TIN of the entity or individual making the donation, the location of the land, the value of the land at the time of the donation, as well as relevant Forms 8283 (and Form 8282 where appropriate). Please provide the current status and use of the donated land, including whether the land has been sold by TNC and,

if so, the date and amount of TNC's sale.

11. Valuation

The *Washington Post* quotes a TNC state trustee regarding charitable deductions:

“Generally, the buyer puts too much value on it [for tax purposes]. Land donators almost always try to value their land at more than the [true] value. **This is a business.** We sort of wince and look away at some of the values buyers put on these transactions. We're not the IRS.” (Emphasis added).

Please provide TNC's viewpoint on this statement.

12. Related Organizations

Please describe the activities of all TNC-related organizations cited in the most recent Form 990 for the last five years. Please provide a copy of the Form 990 for related nonprofit organizations and a copy of the tax return for related for-profit organizations for the past five years. In addition, please provide for the last five years TNC's Form 990-T and the Form 990-T of related organizations.

13. Travel, Conferences, Meetings and Other

The most recent Form 990 filed by TNC shows that TNC spent over \$13 million dollars on travel, conferences, conventions and meetings. Please provide a description (including dollar amount, location, hotel) of each activity with respect to which more than \$2,000 was spent on behalf of an individual since January 1, 2002. Finally, please provide a detailed breakdown of the \$23 million dollars in “other expenses” listed in the Form 990 for 2002.

14. Transactions With Board Members

Please list all land transactions between TNC and any Trustees, Governors, or staff (national and state) since January 1, 1998. Please provide copies of all material that was submitted to any TNC Board (national and/or state) for determining their approval. Please also provide any board minutes regarding these decisions. Finally, please provide the same information for each of these land transactions as was requested for CBP transactions in #1 above.

15. Conservation

TNC states to the *Washington Post* that it consulted with the U.S. Fish and Wildlife Service regarding the drilling for gas in Texas. Please provide copies of all material related to that consultation.

16. Litigation

Please provide the names of the parties, a brief description of the issue, the date of settlement

or court order and the amount paid by TNC or its related organizations to settle or resolve all litigation or potential litigation since January 1, 1998. Please provide this information only where total cash value of payments were over \$50,000.

17. Grants

The Form 990 fails to provide a list of grantees. For the last five years provide a list of each grant, the dollar amount (as well as noncash amount), the recipient and purpose of the grant. In addition, please note any relationship with TNC and its related organizations, board, officers, employees, etc. Finally, provide all other information required under the instructions for Form 990 published by the IRS: "Specific Instructions for Form 990."

18. Cash Donations

Please list the name and address of all donors – both individuals and business entities – who provided a cash donation of \$50,000 or more in any year since January 1, 1998.

Please provide the requested information by August 18, 2003. We would suggest that as information to separate questions is completed it should be forward without awaiting answers and information for all questions. We recognize that some of the information requested is sensitive and will work with TNC in ensuring protection of such identified information.

Cordially yours,

Charles E. Grassley
Chairman

Max Baucus
Ranking Member