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## A Matter of Trust

Teachers and environmentalists square off against homebuilders and ranchers in the battle over state land

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Teachers, environmentalists, homebuilders, ranchers, business leaders, politicians and--of course--lawyers have been wrestling for nearly a decade over how to best handle more than 9 million acres of state trust land scattered across Arizona.

Now voters have a chance to settle the disputes on Nov. 7, when they'll decide the fate of Proposition 105 and Proposition 106, a pair of dueling reform measures on the ballot.

The teachers, environmentalists and business leaders have embraced Proposition 106, which would set aside almost 700,000 acres of environmentally sensitive land, create a new public board to review State Land Department decisions and provide more planning resources for trust land.

On the other side are homebuilders, cattle ranchers and school board officials, who are supporting Proposition 105, which would set aside about 40,000 acres (with as much as 400,000 acres down the line--if the Legislature approves of such conservation efforts), but otherwise preserve the status quo of current trust-land management.

To understand what the fight is all about, you have to go back nearly a century, when Arizona became a state in 1912. Part of the deal set aside squares of land in a checkerboard pattern across the state to benefit a variety of future beneficiaries, primarily the public schools. With some additional federal gifts and swaps over the next few decades, the total amount of state trust land peaked at about 10.7 million acres.

Rather than sell the land outright, state leaders have leased it to ranchers, auctioned or swapped the occasional parcel, and watched the value grow.

Today, almost 9.3 million acres remain in the trust land system--and with some of those parcels sitting on the edge of urban areas, it's ideal for development.

As a result, the State Land Department has become one of the biggest players in the real estate biz, auctioning off one massive parcel after another. On Tucson's southeast side, for example, the Land Department is planning a future development that will be home to an estimated quarter-million residents on 816,000 square miles, including 418,000 square miles of state trust land.

As the land is sold, the various trusts fill with cash, generating interest that flows to the school system and other beneficiaries. Twenty years ago, the total trust was worth about \$200 million; by 2003, the market value had climbed to \$1.12 billion. In the next decade, trust officials estimate the value of the trust will grow as high as \$2 billion. In 2004 alone, the department sold 1,800 acres of state trust land for a record \$337 million.

But when state trust land was set aside in the territorial days, nobody was concerned about environmental values. The trust holdings include parcels that would be ideal for conservation, such as Coconino County's Walnut Canyon, Tucson's Tumamoc Hill and the parcels in the Tortolita Fan on Pima County's northern border.

For the last decade, environmentalists have been warning that sensitive land will end up getting auctioned off for subdivisions. But preservation efforts have been hamstrung by a provision of the Arizona Constitution that states that the land must be disposed of at "highest and best use"--which has been interpreted as the most money the land can get at auction.

Prop 106 would change all that. The initiative, born out of a collapsed effort to find common ground with various interest groups, including teachers, homebuilders, ranchers and environmentalists, would conserve 690,000 acres of the best state trust land, according to Andy Laurenzi of the Sonoran Institute, who has been involved in trust land reform on and off for about a decade.

A complete map of the proposed conservation areas can be viewed [online](#); in Pima County, those parcels include:

- More than 22,500 acres in the Tortolita Fan and Tortolita Mountain Park, home to a dense ironwood and saguaro forest.
- More than 6,000 acres in Rincon Valley near Saguaro National Park East.
- More than 2,600 acres in Saguaro National Park West, as well as 166 acres in Tucson Mountain Park.
- More than 1,600 acres near Catalina State Park that would provide a link to the county's Tortolita Mountain Park.
- More than 50,000 acres in the Santa Rita Experimental Range, where the University of Arizona is doing grasslands research with a rancher who holds grazing leases on the property.
- More than 517 acres of Tumamoc Hill, where a UA desert research station has been operating for close to a century.

Besides setting aside parcels for conservation, the initiative would also create a new seven-member oversight board that would review the land-disposition decisions of the state land commissioner.

"For the first time, we'll have an opportunity for some of the decisions to undergo some degree of scrutiny," says Laurenzi. "It's bringing much-needed sunshine to a department that receives very little public scrutiny."

But Spencer Kamps, a longtime lobbyist for the Home Builders Association of Central Arizona, says Proposition 106's board has serious flaws. Kamps argues that the proposed board, for example, isn't required to have financial or planning expertise.

The initiative requires that "the members shall have substantial experience with matters that are within the scope of the board's authority, and a majority shall have substantial involvement with the public schools, such as experience with common school or university governance or administration, teaching or education advocacy."

"That is extremely vague language for a constitutional amendment," complains Kamps, the spokesman for Save Our Trust, the anti-106 committee which had received at least \$1.5 million of the \$1,591,414 that it had raised as of Oct. 2 from the Homebuilders Association of Central Arizona.

Kamps adds that "it's our contention that the mission of the trust is changed by Prop 106, so anybody could be qualified."

Laurenzi contends that because board members will have to be appointed by the governor and confirmed by the Arizona Senate, it's unlikely that the board will be controlled by out-of-touch second-grade teachers.

"Why would the governor appoint someone like that?" Laurenzi asks. "And if the governor for some reason did, why would the Senate confirm them?"

Proposition 106 would also reform the Land Department's planning powers. For starters, the initiative would clarify a long-simmering dispute between the Land Department and local planning agencies by stating that the Land Department is bound by local rules and regulations. Because it is a state agency, Land Department officials say they don't have to go along with local planning efforts, such as the Sonoran Desert Conservation Plan.

The initiative would also divert a portion of the proceeds from land sales to the Land Department to fund planning efforts.

Kamps says the department does need more money for planning efforts, but "the question is, where should that money come from? It's our contention that the Legislature ought to appropriate those funds as needed. Their idea is to make the kids--the public school system--fund the land department with no checks or balances."

But Laurenzi says the Legislature would still set the budget for the Land Department, which would prevent the bureaucracy from wasting money or growing out of control.

Kamps concedes that provision is in the initiative, but says it wouldn't hold up in court if the new board attempted to take control of the finances.

"We've looked at it from a legal perspective, and history has proven at the Legislature that that if they don't have the ability to collect the money--which the Legislature doesn't--the Legislature has very little authority over appropriations."

Laurenzi suggests that Proposition 105 was put on the ballot by state lawmakers at the behest of the homebuilders to confuse voters.

"It's a farce," Laurenzi says. "It doesn't do anything. It preserves the status quo and sets aside a small amount of land."

Laurenzi points out that Save Our Trust is focusing their campaign on knocking down Proposition 106 rather than supporting Proposition 105.

Kamps says he'd like to see Proposition 105 pass, but admits that the focus of the campaign is defeating Proposition 106.

"We think 106 is a greater threat to state land than the passage of 105," Kamps says. "We've advocated for it; we talk about it; we encourage people to vote for it, but we've never hidden the fact our No. 1 goal is to defeat 106."

Polling shows that voters prefer Proposition 106 over Proposition 105. A KAET-TV (Phoenix) poll taken last month showed that 49 percent of surveyed voters supported Proposition 106, while 21 percent opposed it, and 30 percent were undecided.

The poll also showed that only 36 percent of the voters supported Proposition 105. Another 34 percent were opposed, and 30 percent remained undecided.

While Kamps' group has been funded by the Home Builders Association of Central Arizona, Conserving Arizona's Future has received its funding from environmental groups, teachers' unions and business organizations, as well as individual contributors. The group had raised \$1.97 million as of Oct. 2 and still had \$660,000 in the bank.

Major contributors included the Nature Conservancy (\$600,000), the National Education Association (\$250,000) and a political action committee called the Conservation Campaign (\$566,300).

The dozens of supporters of Proposition 106 include the Arizona Education Association, Gov. Janet Napolitano, Congressman Raul Grijalva, Tucson Mayor Bob Walkup, Phoenix Mayor Phil Gordon, Flagstaff Mayor Joe Donaldson, former Interior Secretary Bruce Babbitt, Attorney General Terry Goddard, all the members of the Tucson City Council and the Pima County Board of Supervisors, local environmentalist Carolyn Campbell, the Arizona Education Association, the Center for Biological Diversity and the *Tucson Weekly*.

Meanwhile, Kamps' group is supported by a number of ranching and farming groups, the Arizona Rock Products Association, Southern Arizona ranchers Jim and Sue Chilton, and a variety of GOP state lawmakers, including Russell Pearce, Andy Biggs and Steve Tully.

Kamps says that he agrees that more state trust land should be preserved, but Proposition 106 is flawed.

"Our contention with 106 is not the 700,000 acres of up-front land," says Kamps. "It's how the remaining 8 million acres are managed. We stand for more money for education and proper planning and good governance and the preservation of open space, and 106 fails on all those tests in our opinion."

But Laurenzi dismisses the campaign against Proposition 106 as a "sham."

He says that Kamps and other opponents to Proposition 106 are "taking this tack that they are motivated by protecting teacher pay. It's the height of disingenuous campaigning. ... What are they after? They're after the cushy deals they've been getting for state trust land."