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## Issues Groups Fund Seminars for Judges

*Classes at Resorts Cover Property Rights*

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Federal judges are attending expenses-paid, five-day seminars on property rights and the environment at resorts in Montana, sessions underwritten by conservative foundations that are also funding a wave of litigation on those issues in the federal courts.

Funding for the seminars, run by a group called the Foundation for Research on Economics and the Environment (FREE), also comes from foundations run by companies with a significant interest in property rights and environmental law issues, Internal Revenue Service records show.

A 1996 letter to judges said the seminars "explore the role of prop-

erty rights, incentives, and voluntary cooperation in achieving environmental goals," and noted, "Conference and travel expenses are paid and time is provided for cycling, fishing, golfing, hiking and horseback riding."

The seminars are held at the Gallatin Gateway Inn, a restored 1927 railroad hotel near Bozeman complete with its own casting pond, and Elkhorn Ranch near Big Sky, described in its promotional material as a "traditional dude ranch" one mile from Yellowstone National Park, where "the comfortably rustic guest cabins ... are built from hand-hewn native logs." Some judges bring spouses at their own expense and must pay for

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# In Attendance at Foundation's Judiciary Courses

Following is a list of federal judges who have attended seminars sponsored by the Foundation for Research on Economics and the Environment from 1992 to 1996. The list is taken from a document prepared by FREE. Judges referred to by state serve on the lower federal court in that state; judges referred to by circuit serve on courts of appeals:

Harold Ackerman, N.J.; Carol Amon, N.Y.; Marvin Aspen, Ill.  
Bobby Baldock, 10th Circuit; Harvey Bartle III, Pa.; Alice Batchelder, 6th Circuit; Edward Becker, 3rd Circuit; Peter Beer, La.; Fortunato Benavides, 5th Circuit; Danny J. Boggs, 6th Circuit; Michael Boudin, 1st Circuit; Dudley Bowen Jr., Ga.; W. Earl Britt, N.C.; Bailey Brown, 6th Circuit; Garrett Brown Jr., N.J.; Paul N. Brown, Tex.; James Browning, 9th Circuit; James L. Buckley, D.C. Circuit; Lucius Bunton III, Tex.  
James Cacheris, Va.; Gregory Carman, Court of International Trade; Gene Carter, Maine; William Castagna, Fla.; Robert Cleland, Mich.; Edith Brown Clement, La.; Howell Cobb, Tex.;

Suzanne Conlon, Ill.  
Raymond Dearie, N.Y.; Robert G. Doumar, Va.; David Dowd, Ohio; Adrian Duplantier, La.  
Robert Echols, Tenn.; B. Avant Edenfield, Georgia; Garnett Thomas Eisele, Ark.; Richard Enslin, Mich.  
Bohdan Futey, Court of Federal Claims.  
Paul Gadola, Mich.; Edward Garcia, Calif.; Douglas H. Ginsburg, D.C. Circuit; John Gleeson, N.Y.; Alfred T. Goodwin, 9th Circuit; Ralph Guy Jr., 6th Circuit.  
Cynthia Hall, 9th Circuit; C. LeRoy Hansen, N.M.; Terry Hatter, Calif.; Hayden W. Head Jr., Tex.; Thomas Hogan, D.C.; D. Brock Hornby, Maine.  
Dennis Jacobs, 2nd Circuit; James Jarvis, Tenn.; E. Grady Jolly, 5th Circuit; Edith Jones, 5th Circuit.  
Jackson Kiser, Va.  
Alfred Lechner, N.J.; Charles A. Legge, Calif.; Harry Leinenweber, Ill.; Ronald S.W. Lew, Calif.; Eugene Lynch, Calif.  
Paul A. Magnuson, Minn.; Daniel A. Manion, 2nd Circuit;  
Boyce F. Martin Jr., 6th Circuit; H. Robert Mayer, Federal Circuit;  
Joe Billy McDade, Ill.; Gilbert Merritt, 6th Circuit; Thomas Meskill, 2nd Circuit; Paul Michel, Federal Circuit; Richard Mills, Ill.; James Moran, Ill.; Henry C. Morgan Jr., Va.; Diana Murphy,

8th Circuit.  
Pauline Newman, Federal Circuit; Paul V. Niemeyer, Fourth Circuit; John Nordberg, Ill.  
William O'Kelley, Ga.; Diarmuid O'Scannlain, 9th Circuit.  
James Paine, Fla.; S. Jay Plager, Federal Circuit.  
Randall Rader, Federal Circuit; Reena Raggi, N.Y.; A. Raymond Randolph, D.C. Circuit; Wilkes Robinson, Federal Claims; Jane Roth, 3rd Circuit; Gerald Rosen, Mich.; David Russell, Okla.  
Charles Sifton, N.Y.; Eugene Siler Jr., 6th Circuit; Charles R. Simpson III, Ky.; D. Brooks Smith, Pa.; Jerry E. Smith, 5th Circuit; Loren Smith, Federal Claims; William Stafford, Fla.; Walter Stapleton, 3rd Circuit; Richard Stearns, Mass.; Joseph E. Stevens, Jr., Mo.  
Anne Thompson, N.J.; Gerald Bard Tjoflat, 11th Circuit; James Trimble Jr., La.; James Turner, Federal Claims; Jerome Turner, Tenn.  
Roger Vinson, Fla.; Kathryn Vratil, Kan.  
John M. Walker, 2nd Circuit; Donald Walter, La.; Stephen F. Williams, D.C. Circuit; Thomas A. Wiseman, Tenn.; Alfred Wolin, N.J.; Charles Wolle, Iowa.  
Robert Yock, Federal Claims.  
Thomas Zilly, Wash.

Asked about FREE's funding, chairman Baden said, "We take money only from dead people. This money has to come from foundations, and the reason is obvious. I'm sure there are a large number of companies who would love to fund this program but I'm sure a company large enough to fund it would have many cases before the federal courts so there's a potential conflict."

FREE's 1997 annual report shows that it received \$157,500 directly from corporations, in addition to \$389,350 from foundations. Baden said the corporate money, whose precise sources he declined to identify, was used for general operating expenses such as salaries and rent, and other FREE activities, such as writing books.

A number of the foundations that fund FREE are also major givers to legal groups pressing property rights cases, including Defenders of Property Rights, Pacific Legal Foundation, New England Legal Foundation, Washington Legal Foundation and Institute for Justice.

One of the biggest contributors to FREE is the Carthage Foundation, headed by conservative publisher Richard Mellon Scaife, which has given \$100,000 annually since 1993, according to IRS records, and has also been a major funder of such legal groups. Baden said the Car-

thage money was not used for the judicial seminars themselves.

The M.J. Murdock Charitable Trust, identified by Baden as the biggest supporter of the judicial seminars, gave \$200,000 in 1994 to the Pacific Legal Foundation. That same year, PLF submitted friend-of-the-court briefs in two critical cases in the federal circuit that involved wetlands. The author of one the opinions, S. Jay Plager, has since attended two FREE seminars, according to financial disclosure forms. Plager also wrote for the court majority in the *Preseault* case.

"When I get invited to attend a conference . . . I assure myself that the sponsor is not a litigant or potential litigant before this court and I assure myself that the sponsor is a charitable institution," he said. "Beyond that I do not ask and, indeed, I do not want to know the

details because I'm aware that on both sides of the political spectrum one can find organizations and foundations that seek to pursue some of their objectives by encouraging education. As long as they do it in a nonpartisan and nonpolitical way, I see no problem with being educated."

Two foundations controlled by Charles and David Koch, conservative brothers who also run Koch

Industries, an oil and gas company, have also contributed to FREE, including providing funding earmarked for the seminars. Koch Industries is currently being sued by the United States for violating the Clean Water Act.

FREE has also received funding from industry-run foundations, including Amoco, Burlington Resources and Shell Oil, all of which have an interest in environmental regulation. Baden said this money does not go to the judicial seminars.

U.S. District Judge Richard Stearns of Boston, a Clinton appointee who has attended two FREE seminars and is scheduled to lecture at a third in September, said, "I've never detected any attempt to indoctrinate" judges at the seminars. "I certainly wouldn't feel friendlier to someone because they contributed to an educational seminar. If that were their motive, it certainly isn't working."

Baden said the seminars present "a very wide range" of viewpoints on property rights and environmental regulation, saying, "The last thing that would make sense for judges who are used to hearing two sides is to only present one. That would be grossly counterproductive, I think."