

be favorite targets of environmental extremists. Now they are taking aim at something else—tourism.

Targeting so-called "industrial tourism," the Earth Liberation Front admitted setting fires last week that caused more than \$12 million in damage at Vail, the nation's busiest ski resort. The goal was to halt another expansion because of fears it could harm a potential habitat for the lynx, a threatened species of mountain cat.

The mainstream environmental movement denounced the arson, but some are surprised such an attack didn't happen sooner.

"I know in my heart there has been an environmental time bomb waiting to go off in Vail and other ski areas for a long time," said environmental writer J.D. Braselton.

The ski areas have also come under attack for creating a widening economic gap between the haves and have-nots near resort towns.

"A classic story in Telluride is of two people who came here to build trophy homes. And they built them on mesas facing each other. Each then filed suit against the other because they didn't want to see another home," said Peter Spencer, a former mayor in Telluride, in southwest Colorado.

Such trophy homes ultimately lead to skyrocketing property values, which force the working population to move to less desirable areas and commute many miles over snow-covered mountain passes.

"We lose employees on a regular basis to jobs down valley, where they live," said Bob McLaurin, Vail town manager.

He worries that someday there won't be anybody available to answer police or fire calls, or serve tourists in restaurants.

Friends say Edward Abbey, author of the book "The Monkey Wrench Gang," a fictionalized account of his guerrilla-style attacks on mining and dam-building, would turn over in his grave if he could see the effects of the tourism that replaced them.

"There will be more [negative] impact through tourism than all the mining, logging and ranching combined," said Ken Sleight, a Moab, Utah, outfitter who served as the model for the outfitter "Seldom Seen Smith" in Mr. Abbey's book, which is considered a major force in launching the environmental movement in the Southwest.

Dan Kitchen, an Aspen environmentalist once convicted of cutting down a fence a homeowner had built to keep out wildlife, calls ski areas "developmental terrorists" because they finance much of their operations through the sale of million-dollar monster homes.

Colorado traditionalists have another gripe. Tourism and other service jobs pay an average of \$13,000 annually, compared with the \$40,000 that miners or loggers might earn, says Greg Walcher, president of Club 20, a western Colorado trade promotion group.

They blame past efforts by environmentalists for helping drive away the higher paying jobs, and now see the same pattern surfacing again.

"The environmental movement is at least partly responsible for a massive shift away from our traditional industries. Tourism is all some of these towns have left. An attack on the ski industry is an attack on the economy of western Colorado," Mr. Walcher said.

A recent economic study done for the U.S. Forest Service found that from 65 percent to 75 percent of the jobs in the White River National Forest, site of more ski areas than any other national forest, are in tourism.

WHERE THE JOBS ARE

[Many jobs in Colorado counties with ski resorts are tourism-related.]

County	Major ski resort	Tourism jobs	Percent of total	Income (\$1,000)	Income (% of total)
Eagle	Vail	12,530	45	236,836	28

WHERE THE JOBS ARE—Continued

[Many jobs in Colorado counties with ski resorts are tourism-related.]

County	Major ski resort	Tourism jobs	Percent of total	Income (\$1,000)	Income (% of total)
Pitkin	Aspen	11,854	53	232,459	38
Summit	Breckenridge	11,327	53	182,145	36

Source: 1995 White River National Forest Interdisciplinary Team.

The saying goes that the most common greeting in western Colorado is: "Can I take your order?"

CONFERENCE REPORT ON H.R. 4328, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 12, 1998

Mr. SHUSTER. Mr. Speaker, earlier this year, the Airline Service Improvement Act, H.R. 2748, was approved by the Transportation and Infrastructure Committee. This bill contained two sections (sections 401 and 402) on airline alliances and Department of Transportation competition guidelines. H.R. 2748 never passed the House. However, sections 401 and 402 were included, without change, in subsections (f) and (g) of section 110 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999.¹ The rationale and purpose of these two provisions are more fully explained in the Committee's report on H.R. 2748. The number of that report is H. Rept. 105-822. The relevant portions of that report are set forth below.

MAJOR AIRLINE ALLIANCES

Alliances between major airlines and regional airlines are quite common. These usually involve code-sharing and other marketing arrangements. However, such alliances between two major airlines are more unusual.

Earlier this year, Northwest and Continental, United and Delta, and American and US Airways announced plans to form 3 separate alliances. These 6 airlines carry about 70% of passengers within the U.S.² These airlines contend that their alliances will benefit passengers by increasing the number of destinations and flights they can offer economically. Critics, however, argue that this consolidation will undermine the benefits of deregulation by decreasing competition, which will ultimately reduce passengers' choices and increase fares.

Committee members have differing views on the merits of these alliances. However, the Committee does believe that they raise important issues that should be considered by the DOT. Accordingly, the reported bill establishes a procedure under which DOT is given a specified period of time to review the alliances before implementation.

It is important to note that the reported bill does not expand or diminish DOT's authority to review airline alliances. It simply

provides for a waiting period before a proposed alliance can take effect. During that period, DOT can take action it deems necessary under its existing statutory authority. No additional substantive authority is provided by the reported bill.

COMPETITION GUIDELINES

On April 10, 1998, DOT issued a request for comments on an "Enforcement Policy Regarding Unfair Exclusionary Conduct in the Air Transportation Industry."³ It took this action in response to complaints from new entrant airlines that the larger more established airlines were using unfair methods to compete against them.

Under this proposed policy, DOT stated that it would trigger a review, including possible enforcement action, in the following circumstances:

1. When the major airline both adds flights and sells such a large number of seats at very low fares that it ends up losing more money than it would have if it had adopted a more reasonable competitive response;
2. When the major airline carries more passengers at the new airline's low fares than the new airline has in available seats and as a result ends up losing more money than it would have if it had adopted a more reasonable competitive response; or
3. When the major airline carries more passengers at the new airline's low fares than the new airline carries and as a result ends up losing more money than it would have if it had adopted a more reasonable competitive response.

The Committee certainly supports fair competition and believes that new entrants should have a reasonable chance to survive since they often are the catalyst for low fares and improved air service to many communities including the sort of communities that are the focus of this bill.

Many have expressed support for the Department's guidelines. The Attorney General of Iowa, the co-chair of a working group of over 20 states which are reviewing airline competition, stated the proposed guidelines are "a sound common-sense, and much-needed tool" with regard to airline competition. In testimony before Congress, Spirit Airlines stated that it was forced out of markets because a major airline, in protecting a monopoly route, was engaging in exactly the type of behavior the Department is proposing to find unlawful. And Alfred Kahn, the father of deregulation, has praised the Department's initiative for promoting competition by providing air carriers clear guidance in distinguishing legitimate competition from what is intended to drive competitors out and exploit consumers.

However, others have expressed concern that the proposed guidelines will not increase competition but may hurt the very communities that they are designed to help by raising air fares and reducing air service, the exact opposite of the goals of the reported bill. Not only the major airlines, but also small and medium-sized airports, airline employees, both liberal and conservative think tanks, and at least one consumer group have indicated their opposition to the guidelines. For example, the Aviation Consumer Action Project stated that the "DOT initiative in the area of airline competition is likely to effectively prohibit airfare price wars and increase airfares higher than they would otherwise be"⁴ and a small airport

¹ See page H11203 of the Congressional Record of October 19, 1998.

² Hearings Before the Subcommittee on Aviation of the Senate Committee on Commerce, Science, and Transportation, 105th Congress, 2d Session (June 4, 1998) (Statement of John H. Anderson, Jr., Director, Transportation Issues; Resources, Community, and Economic Development Division, U.S. General Accounting Office).

³ 63 Fed. Reg. 17919, April 10, 1998.

⁴ "Impact of Recent Alliances, International Agreements, DOT Actions and Pending Legislation on Air Fares, Air Service, and Competition in the Airline Industry" Hearings before the Subcommittee on Aviation of the House Committee on Transportation and Infrastructure, 105-64, 105th Congress, 2nd Session, (April 30, 1998) 473.

wrote to DOT on May 25, 1998 complaining that under its guidelines, "the loser is the consumers in small markets who are looking for increased service and capacity."

In light of these arguments, it is important that a closer look be taken at the issue. Accordingly, the reported bill mandates two studies.

The first, by the Transportation Research Board (TRB), would update their highly-regarded work on airline deregulation published 7 years ago.⁵ This is designed to take a broad look at the issue of airline competition today and provide guidance to Congress and DOT for future policy decisions. While it is hoped that TRB can complete its work soon enough so that DOT can take advantage of it in its reconsideration of its guidelines, the issuance of the guidelines is not tied to completion of TRB's work.

The second study would be conducted by DOT and would be focused more specifically on the proposed guidelines and any alternatives to it. DOT would be expected to address many of the concerns raised by the opponents of the proposed guidelines in this study.

No deadline is imposed on DOT for the completion of its study. However, it could not issue final guidelines until the completed study was transmitted to Congress. If as a result of the study, DOT still believes the guidelines are justified, those guidelines would have to be transmitted to Congress as well and there would be a period for Congressional review before those guidelines could become effective.

As with the alliances, it is important to note here as well that the reported bill does not take any position on DOT's authority to adopt competition guidelines. The reported bill merely calls for studies on the factors which may impact competition in the airline industry. These studies are designed to provide guidance to Congress and DOT in deciding what if any action should be taken to enhance or modify the level of competition in the airline industry.

If, upon completion of these studies, DOT decides to issue competition guidelines, those guidelines must be within the agency's existing statutory authority. Nothing in the reported bill expands or diminishes DOT's authority in this regard or expresses a position on DOT's existing authority.

SECTION-BY-SECTION SUMMARY

Section 401. Joint venture agreements

Establishes a procedure for DOT review of major airline alliances.

Subsection (a) defines terms.

Paragraph (1) defines the sort of alliances between major airlines that are covered by this section. They are—

(A) Code-sharing, blocked space, long-term wet leases, and frequent flyer programs; and

(B) Other cooperative working arrangements that affect more than 15% of the major airlines' available seat miles.

Paragraph (2) cross-references Part 241 of DOT rules to define which airlines are covered by this section.

Subsection (b) requires major airlines covered by this section to file with DOT a copy of their alliance agreement and other information that DOT, by regulation, requires at least 30 days before an alliance covered by this section takes effect.

Subsection (c) permits DOT to extend the 30-day period for 150 days in the case of an alliance involving code-sharing and for 60 days in the case of any other alliance covered by this section. However, DOT could not automatically extend the time as a matter of

course but would have to publish in the Federal Register the reasons that the extension is needed.

Subsection (d) permits DOT to shorten the waiting periods at any time.

Subsection (e) makes clear that the waiting periods could not be delayed while DOT is developing regulations to implement this section.

Subsection (f) directs DOT and the Justice Department to develop a memorandum of understanding on pre-clearance procedures to prevent unnecessary duplication of effort.

Subsection (g) states that the waiting period for alliances entered into before the date of enactment begins on the date, as determined by the Secretary, on which all of the required information was submitted and ends on the last day under which the waiting period could have been extended under subsection (c) above.

Subsection (h) makes clear that the procedural authority granted to DOT under this section does not limit the authority of the Justice Department to enforce the antitrust laws.

Section 402. Competitive practices in the airline industry

Subsection (a) requires certain studies.

Paragraph (1) requires the Transportation Research Board to update the portions of its 1991 study of airline deregulation that deal with competition issues in the airline industry and include any recommendations for changes in the statutory framework under which the airline industry operates.

Paragraph (2) requires this study to be transmitted to Congress and DOT within 6 months of the date of enactment.

Paragraph (3) requires DOT to respond to this study within 2 months.

Subsection (b) directs DOT to conduct a study and transmit to Congress a report that includes the following:

(1) A description of complaints DOT has received alleging predatory pricing or unfair competition, the number of such complaints, and specific examples of unfair competition or predatory pricing;

(2) A description of the options DOT has for addressing these problems;

(3) An analysis of its proposed competition guidelines including the analysis required by subsection (c) below; and

(4) A description of how DOT will coordinate the handling of predatory pricing and unfair competition complaints with the Justice Department.

Subsection (c) prohibits DOT from issuing final competition guidelines until it transmits the report described above to Congress. If DOT decides to issue such guidelines, it must transmit them to Congress. If the guidelines transmitted are different from the ones it originally proposed, DOT must include, as part of its transmittal to Congress, information documenting and quantifying the impact of these final guidelines on the following:

(A) Scheduled service to small and medium-sized communities;

(B) Air fares including the availability of senior citizen, Internet, and standby discounts;

(C) The incentive and ability of major airlines to offer low air fares;

(D) The incentive of new airlines to offer low air fares;

(E) The ability of airlines to offer inclusive leisure travel for which air fares are not separately advertised;

(F) Members of frequent flyer programs;

(G) The ability of airlines to carry connecting passengers on the portion of the routes served by new airlines covered by the guidelines; and

(H) Airline employees.

Subsection (d) requires DOT, in conducting the study, to consult with the Justice Department, airlines, airports, academic and economic experts, airline employees, and passengers.

Subsection (e) states that, if DOT issues final competition guidelines, those guidelines shall not become effective until 12 weeks after they were transmitted to Congress. A week shall only be counted toward the 12 if the House was in session for legislative business (with votes as opposed to a pro forma session) during at least one day of that week.

TRIBUTE TO BISHOP WILLIAM HENDERSON

HON. BILL PASCARELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 12, 1998

Mr. PASCARELL. Mr. Speaker, I would like to call to your attention Bishop William Henderson who will be honored for his efforts in helping the sick and spiritually deprived.

Bishop Henderson has preached God's uncompromised word for more than 40 years. During his stewardship, Bishop Henderson has ministered to hurt people in the tri-state area of New Jersey and in the New York City area as well. He is responsible for ordaining countless people and was the catalyst by which Reverend Theresa Nance was ordained. He has an exemplary record in reaching out to the indigent and the sick.

For more than 20 years Bishop Henderson was employed as a nurse in area hospitals of Buffalo, New York. His healing hand aided the sick and suffering to regain their health through the healing Word of God and his impeccable nursing skills. He retired several years ago.

Bishop Henderson is married and is the father of three children and has unique ministry. Though he preaches throughout the land to large congregations, he has never shied away from preaching at storefront churches or other churches which have not yet found a location. He can be found constantly reading the Bible and teaching. The El-Bethel congregation worships virtually seven days a week, and Saturdays being no exception. Bishop Henderson has often said he leave the church doors open on Saturdays for area residents who may not have a church home, but would like to worship God at a local church.

In spite of the years he has battled illness, Bishop Henderson never allowed his ill state to keep him from preaching God's Word. "In sickness and in health" has been his credo regarding his commitment to the work of the Lord. Children and adolescents flock to his church because he exudes great love for them through a firm hand. Like the Apostle Paul, Bishop Henderson has planted churches around the world, including the continent of Africa. The body of Christ is blessed to have such a devoted servant in its midst and it's proud to recognize his life-long efforts.

Mr. Speaker, I ask that you join me, our colleagues, Bishop Henderson's family and friends, and the State of New Jersey in recognizing Bishop William Henderson's many years of outstanding and invaluable service to the community.

⁵Transportation Research Board, National Research Council, "Winds of Change: Domestic Air Transport Since Deregulation," (1991).