

The Law That Could Make Privately Funded Space Settlement Profitable

By **Alan Wasser**

Alan Wasser has been the Chairman of the Executive Committee of the National Space Society and is now a member of its Board of Directors. A former broadcast journalist (ABC News, CBS News), he then owned and operated a successful international business.

He was the first to propose that the first human settlement on the Moon might use a permanently sunlit mountain top at the Moon's south pole, the existence of which was only later confirmed by the Clementine mission. Much of Ben Bova's new novel Moonrise takes place on that mountain, which Bova named "Mt Wasser."

Introduction

If it would yield enough profit soon enough, private enterprise could settle space for us. Unfortunately, no physical product brought back from the Moon or Mars could earn enough of a profit to justify the cost of establishing a settlement. But we could create a "product" which could start producing some income as soon as a settlement was established, specifically, re-saleable land ownership deeds.

The land grant law, which follows, offers official US recognition of claims of private land ownership of huge tracts of land on the Moon, Mars or asteroids as a reward for privately funded entrepreneurial settlements.

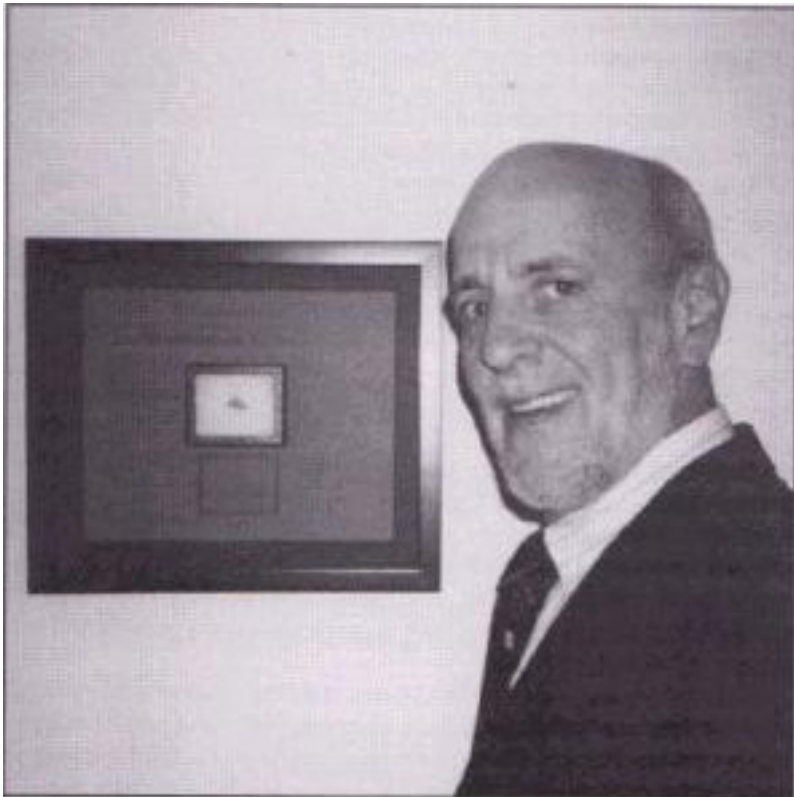
The law is aligned with Declan O'Donnell's ideas. In fact, I'd go so far as to suggest that promoting it should become USIS's first objective, as the best way to open the door for his full plan.

Right now, neither the US State Department nor the equivalent officials of any other nation have any interest at all in "wasting" their time on what they consider such a far-out far-future problem as space property rights.

Although it won't be easy to get the land grant Law passed by Congress, it will be orders of magnitude easier than to get a new international treaty negotiated. The very perception that space settlement and property rights are of no importance to this generation means that a few key congressmen could get the land grant law passed quietly, as part of the next Space Commercialization Bill, before any potential opponents **even** began to take the idea seriously. Then, of course, when the publicity starts and the foreign policy establishments realize what the law really does, they would finally have to take a real interest in USIS's ideas.

I want to thank Declan O'Donnell for his advice, which helped form the current draft of the law. He said it is important "the grantee of the free real estate agrees to use it in part for the benefit of all." Among other things, the proposed

Alan Wasser with a piece of Mars land that he owns, part of the Martian meteorite which landed In Zagami, Nigeria In 1962.



legislation says the claimants must establish regular transportation shuttling between their settlement and the Earth, open to any paying passenger, regardless of nationality. That is certainly a very important benefit for all mankind.

He said it is important that the land grant law be seen as part of a larger scheme leading to an international agreement, adding, "Arguably, this covenant alone would convert your new estate into ' treaty compliant property' ." As you will see, the law now very clearly states that is the case.

One final note: The substance of the legislation is essentially complete but the language could still use some polishing. Suggestions of how to improve the wording would be gratefully appreciated. (Alan Wasser: Fax: (212) 247-2048 E-mail: AWasser@mcimail.com)

November 14, 1997

An Act to Promote Privately Funded Space Settlement

Whereas:

The expansion of the habitat of humanity through the establishment of space settlements will be of inestimable value for America and all mankind. Because the government needs to limit expenditures, it will be even better if financed by private capital rather than the taxpayer' s money.

Unfortunately, the potential short term profit sources are much too small to attract the billions of dollars of private capital necessary, and so, a new incentive is badly needed. The potential value of land on the Moon, Mars, or an asteroid can provide that economic incentive for privately funded space settlement. It is the only possible incentive which will not cost the government anything.

As far as the US is concerned, there is currently no international law on private land ownership in space because the US (and most other major nations) deliberately refused to ratify "The Agreement Governing the Activities of States on the Moon and Other Celestial Bodies", 1984, (hereafter called the Moon Treaty). The US Senate' s refusal to ratify means that the Moon Treaty' s provisions are not "the law of the land" in US courts, and therefore need not inhibit the actions of US citizens or legislators.

Even more important, the very fact that the framers of the Moon Treaty felt it necessary to attempt to write a rule forbidding private ownership of land on the Moon, can itself be taken as a clear confirmation that objective had not already been accomplished by "The Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies", 1967, which the US did ratify, (hereafter known as the Outer Space

treaty), nor by UN resolution 1962 (XVIII).

Thus the failure of the Moon Treaty means there is no legal prohibition in force against private ownership of land on the Moon, Mars, etc. as long as the ownership is not derived from a claim of national appropriation or sovereignty (which is prohibited by the Outer Space treaty).

Congress presumes that it is only a matter of time until new treaties are negotiated, establishing a functional private property regime and granting suitable land ownership incentives for privately funded space settlements. The US will, of course, abide by such new international law when it has ratified such a new treaty. But, given the urgent need for privately funded human expansion into space, as soon as possible. Congress feels something must be done immediately, on a provisional basis, to correct the present inefficiencies in the international standard on property rights in space and to promote privately funded space settlement.

US courts already recognize, certify and defend private ownership and sale of land which is not subject to US national appropriation or sovereignty, such as a US citizen' s ownership (and right to sell to another US citizen, both of whom are within the US) a deed to land which is actually located in another nation. US issuance of a document of recognition of a settlement' s claim to land on the moon or Mars, etc. can be done on a basis analogous to that situation.

This legislation concerns only the issuance of such a US recognition and acceptance of a settlement' s claim of private land ownership, regardless of the nationality of the owner, and nothing in it is to be considered a claim of national appropriation of, nor sovereignty over, any outer space body, or any part thereof. The US does not claim the right to "confer" private land ownership and the US states it is most definitely not making any claim of "National appropriation by claim of sovereignty, by means of use or occupation, or any other means" as prohibited by the Outer Space treaty.

Definition:

Private entity: An individual, corporation or consortium of companies, which is not controlled by a sovereign state or government

Therefore:

All US courts and agencies shall immediately grant recognition, certification and defense to land ownership claims, of up to the specified size, from any private entity which has, in fact established a permanently inhabited settlement on the Moon, Mars or an asteroid, with regular transportation between the settlement and the Earth, open to any paying passenger.

For a land claim to be granted such recognition and certification, the settlement must be permanently and continuously inhabited. Deliberate abandonment of the settlement shall be grounds for invalidating land ownership derived from that

settlement, but there shall be no penalty for brief unintentional absences caused by accident, emergency or aggression. The location and the population of the settlement may change, as long as there continues to be an inhabited settlement within the claim.

The claimant must commit to consistently make good faith efforts to promptly offer, or arrange for, safe convenient transportation to and from the settlement to all, regardless of nationality, who are willing to pay a fare sufficient to cover expenses and a reasonable profit. If demand for transport exceeds supply, and the claimant is making a good faith effort to increase the availability of transport, it may give preference to passengers and cargo offering the largest financial inducement. It may set appropriate standards of behavior and safety, etc. for passengers and cargo and the use of its facilities, but it may not act in an anti-competitive manner. It may not unreasonably deny landing rights, and the right to transport passengers and cargo, to any other safe and peaceful vehicle willing to pay a reasonable fee for such landing rights.

The private entity that establishes the first such settlement on the moon, and meets the other conditions of this law, shall be entitled to be granted full and immediate US recognition and certification of its claim of ownership of up to 600,000 square miles in a contiguous, reasonably compact shape which includes its base.

{Note (not part of the body of the law): For comparison purposes, that' s about the size of Alaska which is 591,000 square miles. It will be worth about four billion dollars at even \$ 10 an acre. That should be big enough to allow the winning consortium to begin earning back their expenditure immediately by selling off pieces of it, but it is only 4% of the moon' s 15,000,000 square mile surface.}

Given the greater distance, expense and amount of available land on Mars, the private entity that establishes the first such settlement on Mars shall be entitled to be granted full and immediate US recognition and certification of its claim of ownership of up to 3,600,000 square miles in a contiguous, reasonably compact shape which includes its base.

{Note: that is roughly the size of the United States, worth about 23 billion dollars at \$10 an acre.}

The private entity that establishes a permanently inhabited base on an asteroid shall be entitled to be granted full and immediate US recognition and certification of its claim of ownership of up to 600,000 square miles in a contiguous, reasonably compact shape which includes its base, or the entire asteroid if its surface area is smaller than 600,000 square miles.

Recognized ownership of land under this law shall include all rights normally associated with land ownership, including but

not limited to the exclusive right to mine any minerals or utilize any resources on or under the land, as long as it is done in a responsible manner which does not cause unreasonable harm to the environment or other people. If the requirements of this law continue to be met, all rights, privileges and responsibilities shall be immediately transferable by sale, lease or other appropriate means to any other private entity.

As long as the required conditions continue to be met, US recognition documents shall remain valid for 100 years or until the US ratifies a treaty that establishes an international property rights regime which gives comparable reward to privately funded settlement, whichever comes sooner. If, after ten years, these limits prove to have been insufficient to get privately funded settlement efforts started, Congress or some national or international authority it delegates, shall consider whether the maximum size of grants should be enlarged.

The US urges other countries to adopt similar laws and the State Department is hereby instructed to try to negotiate a new multilateral treaty, or bilateral treaties with individual like minded nations, making the same land grant rules into international law. All rights and privileges conferred by the law shall be available equally to the citizens (individual and/or corporate) of any nation which passes laws or ratifies a treaty offering similar rights to US citizens.

If need be to secure international agreement, the State Department is authorized to agree to treaties which require that all claimants must be consortia which include companies or citizens from several different countries. It can even be required that at least one of the partners in each consortium be from a developing country.

The US pledges to defend recognized extraterrestrial properties by imposing appropriate sanctions against aggressors, whether public or private.

Each successive settlement on a body shall be allowed to claim up to fifteen percent less than the preceding one was entitled to. No entity (nor two entities which are effectively under the same control) shall be allowed to own a controlling interest in two land claims on the same body. An entity which controls one settlement may, however, sell services such as transport, to a genuinely independent entity which establishes a different settlement and makes a second claim on that body. In the event it cannot be established which of two settlements on the same body was established first, each may claim seven and one half percent less territory than it would have been entitled to if it were clearly the first of the two. If, in such a case, the land claims of the two settlements overlap, and the claimants are unable to divide the land between themselves through negotiation, the court shall allocate the land between them as it sees fit, before recognizing the claims, (end of November 14, 1997 draft) ◆