

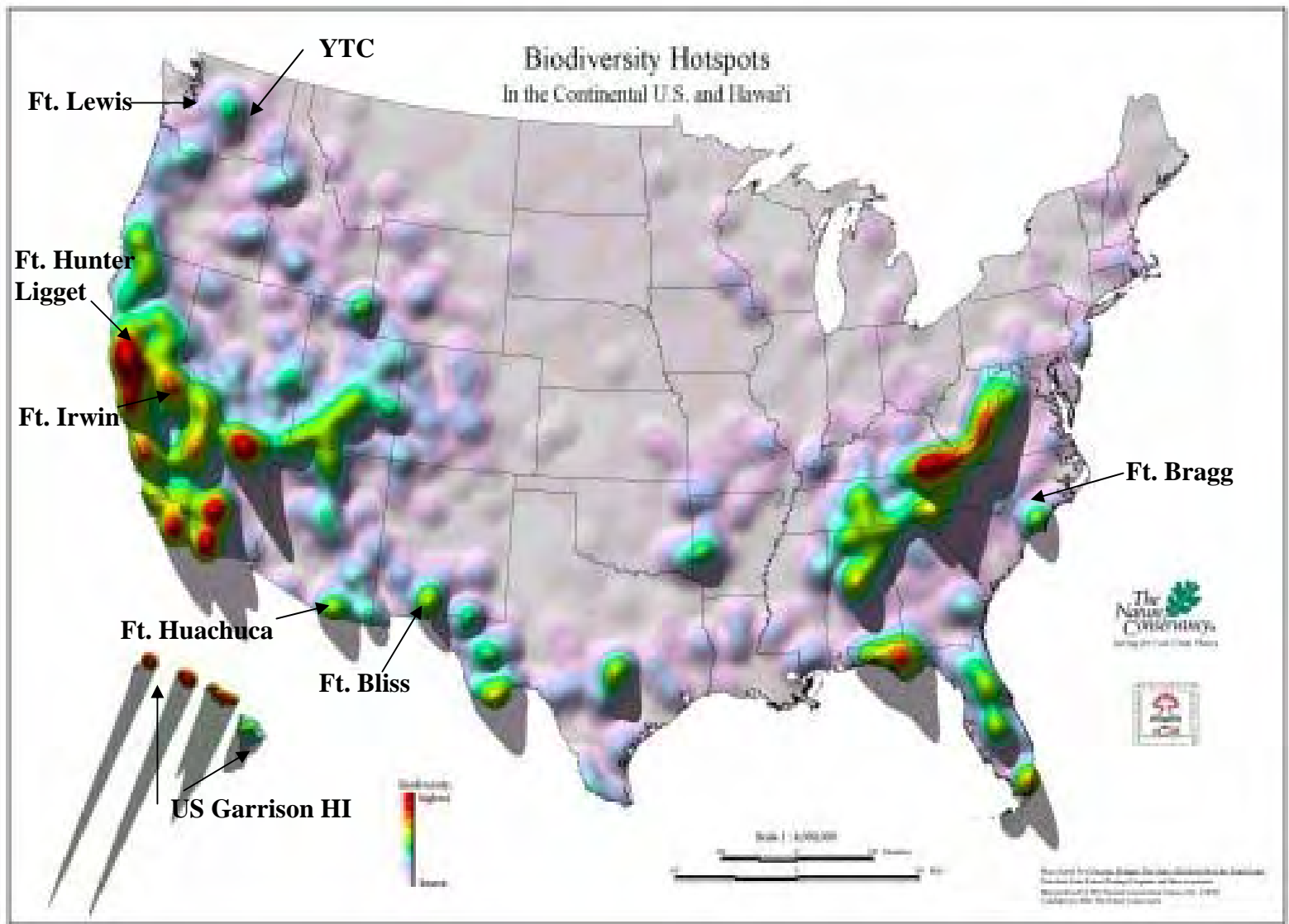
Partnerships Through Cooperative Agreements: Cost-Share



TOPICS::

- Why cooperative agreements?
- Legislative developments
- Figuring out cost-share
- Natural resource management – who pays?

Army Ecosystems Across the US

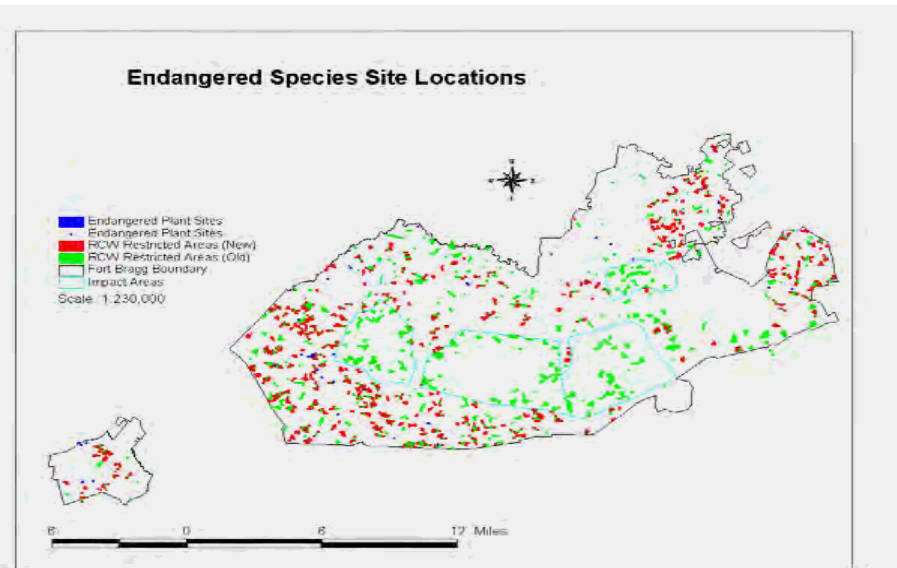


Army Cannot Go It Alone – Looking Beyond The Fence-line

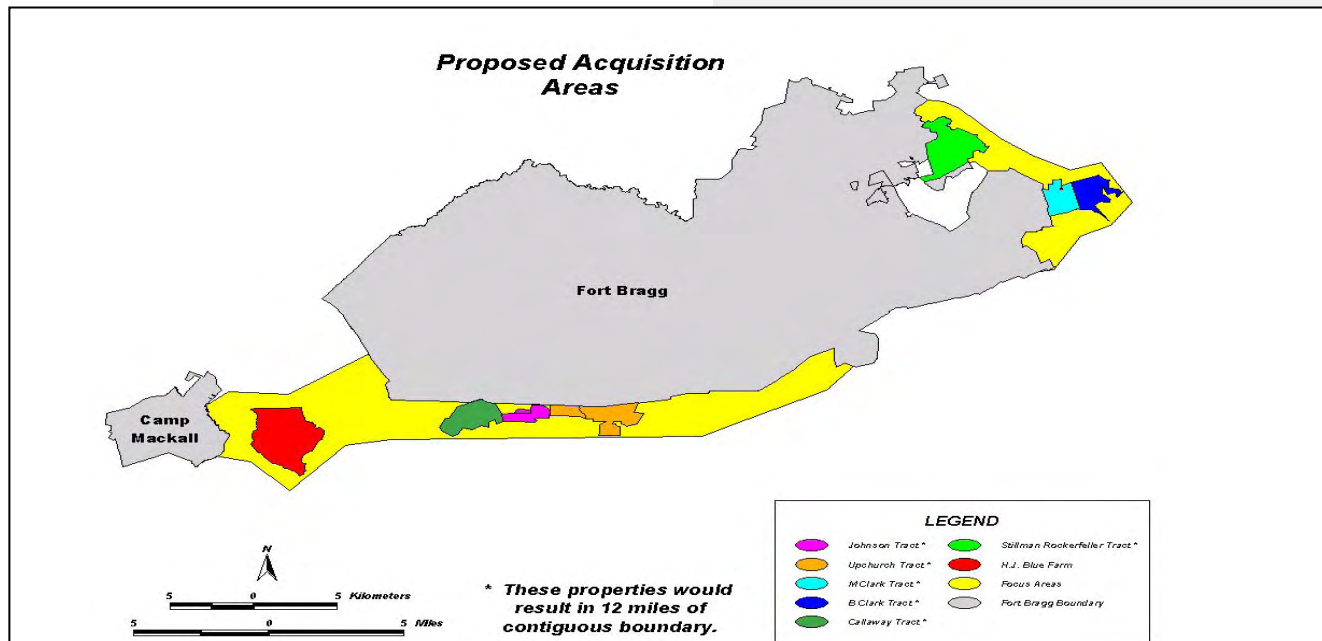
Conflict



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Legislative Progression

- **1995: Sikes Act, 16 USC 670c-1(a)**

- ✓ Authorize cooperative agreements to benefit DoD natural resources
- ✓ No cost-share or cost-match requirement
- ✓ Limitations:
 - ❖ On-post military natural resource nexus
 - ❖ Lack of clarity: color of money; off-post work; realty requirements

- **2002 “Agreements to Limit Encroachments and other constraints on military training, testing and operations,” 10 USC 2684a** Authorize cooperative agreements with eligible entities to avoid encroachment:

- ✓ **Recognized natural resources degradation AND incompatible land use as equally important off-post encroachment drivers**
- ✓ **Requires unspecified partner cost-share for acquisitions**
- ✓ **Requires agreements to authorize Sec Army to demand transfer of interest**

Legislative Progression (continued)

- **2005 “Agreements to Limit Encroachments and other constraints on military training, testing and operations,” 10 USC 2684a (amended)**

- ✓ Requires agreements to provide for acquisition of interests in real property
- ✓ Requires unspecified partner cost-share
 - ❖ in-kind services including maintenance of land
 - ❖ funds: including Federal, State, or Local Gov.
 - ❖ exchange or donation of real property interest
- ✓ **Limits amount of Army contribution to FMV of protective interest**
- ✓ **No mention of land and natural resource management**

- **2006 “Agreements to Limit Encroachments and other constraints on military training, testing and operations,” 10 USC 2684a (amended again)**

- ✓ Authorizes Army to exchange land in addition to funding
- ✓ Land must be determined excess to the needs of DoD
- ✓ Land at one installation may be exchanged to benefit installation with ACUB Agreement in the same State.

Legislative Progression (still continued)

- **2008: Proposed Amendment to 10 USC 2684a**
 - ✓ **Authorizes Army contribution of funds to land and natural resource management**
 - ✓ **Authorize Army to calculate contribution cost on cumulative FMV of protective interests**
- **Beyond 2008.....**

The Magic Cost-share Formula

Assumptions:

1. $FMV_{FEE} > FMV_{CE}$
2. Maximum 10 USC 2684a (d) (4) interest = CE
3. C never exceeds FMV_{CE} or FMV_{FEE}

• Fee acquisition

- $A_{MAX} = FMV_{CE}$
- $A = C - P_C$ if $P_C > (C - FMV_{CE})$
- $P = C - FMV_{CE}$ if $A = A_{MAX}$
- $P = C - A$ if $A < FMV_{CE}$

• Conservation easement

- $A_{MAX} = FMV_{CE}$
- $A = C - P_C$
- $P = C - A$
- $P_C \geq 1\$$ if $A = A_{MAX}$

❖KEY:

- A = Army contribution
- A_{max} = Maximum Army contribution
- C = total acquisition cost
- FMV_{FEE} = fair market value of the fee simple acquisition
- FMV_{CE} = fair market value of the conservation easement
- P = partner required cost share
- P_C = partner contribution toward C

THE KNOWN UNKNOWN

1. Definition of acquisition costs
2. Calculating FMV
3. Whether the author is a complete dunce

Land and Natural Resource Management Costs

- **Endowment: up front lump sum payment as principle generating interest for future stewardship:**
 - ✓ **Presently prohibited under Federal fiscal law**
- **10 USC 2684a: contribution of costs towards management of land and natural resources acquired by partner under ACUB agreement:**
 - ✓ **Presently prohibited under Federal fiscal law**
- **Sikes Act, 16 USC 670c-1(a)**
 - ✓ **Presently authorized**
 - ✓ **Nexus: must benefit natural resources on Army lands**
 - ✓ **May only be funded on an annual basis (see Endowment)**
- **National Defense Authorization Act for Fiscal Year 2008**
 - ✓ **Attempts to resolve issue and expressly authorize funding**