

# **H.R. 3824, The Threatened and Endangered Species Recovery Act (TESRA)**

## ***ESA Reform or Waste of Taxpayer Money?***

Representative Richard Pombo's (R-CA) Endangered Species Act bill (HR 3824) will be voted on this week in the House of Representatives. However, instead of focusing on recovering endangered species, it would force taxpayers to pay unlimited amounts for any business losses from speculative development schemes that corporations never had the right to pursue in the first place. It would give companies and developers the ability to extort taxpayers' money simply for complying with the law.

### **If H.R. 3824 passes:**

#### **Taxpayers would be required to pay.**

H.R. 3824 would force taxpayer to pay "the fair market value of the forgone use of the affected portion of the property including business losses" for any use that would not comply with the Endangered Species Act's (ESA) Section 9 prohibition on actions that would illegally kill or otherwise "take" a protected species. Corporations would receive windfall payments even if they paid little, or nothing, for the property, and even if they can make massive profits on permissible remaining uses of the property.

#### **Rep. Pombo's bill would create a new unlimited corporate welfare entitlement.**

It would require taxpayers to break the budget to provide "aid" to corporate or other property owners who have not lost any property rights. H.R. 3824 would require payments for ANY reduction in value from ANY forgone use of ANY affected portion of property. In each of these respects, it is contrary to every court ruling on "takings" of property and the views of every member of the Supreme Court. Thus, it would require taxpayers to write checks to companies that have not lost any rights.

**It would create perverse incentives to propose environmentally destructive activities** solely to be denied permission and thus be entitled to "aid."

#### **Payments would overwhelmingly go to big corporations.**

Reflecting the highly concentrated nature of land ownership, Professor C. Ford Runge testified about the 1995-96 "takings" bills that 2.1 million large farm operators and timber operators "own 1,035 million acres of land. That means that 2.65 percent of all private land owners own 78 percent of all private land."

#### **H.R. 3824 is not necessary.**

The ESA ensures that agencies respect private property interests through separate "4(d) rules" for threatened species; reasonable and prudent measures; reasonable and prudent alternatives; and incidental take permits and Habitat Conservation Plans. The bill unjustifiably singles out the ESA and sets a dangerous precedent. When the 1995 ESA and Clean Water Act takings bill reached the Senate, it was expanded to cover all federal laws, before it was stopped by a bi-partisan filibuster threat.

**This bill attempts to revive the takings approach that has repeatedly failed to pass Congress in the face of strong bi-partisan opposition, including taxpayer groups; state and local government organizations; and a wide range of national religious denominations; as well as labor, conservation and other groups.**

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