

American Resources Coalition

P.O. Box 33048, Washington, D.C. 20033 (202) 673-4143

An Open Letter to Congress:

American citizens care deeply about protecting our homes and neighborhoods, the safety of our communities and workplaces, the quality of our air, water and life.

These values are now threatened. Laws designed to protect health, safety, the environment and civil rights and balance public and private interests are under assault.

The vehicle for this back-door assault is the steady stream of bills you are now considering under the banner of "takings" or "Private Property Rights" legislation -- H.R. 561(Condit); H.R. 3875 (Tauzin); S177(Dole); S.1915 (Shelby); S. 2006 (Dole); S. 2410 (Gramm) and others. This agenda -- nothing more than a back door effort to evade corporate responsibility -- is more aptly named the "fakings" agenda.

Unfortunately, the issue is about more than manipulative politics and rhetoric. The fact is that the proposals offered by "fakings" proponents will do absolutely nothing to address the concerns of the hardworking, small property owners the authors say they care about.

The bills proposed so far would:

- ◆ Cost an outrageous amount of taxpayers' money to pay corporations simply to be responsible and obey the law.
- ◆ Magnify bureaucratic red tape to require studies that would delay and discourage constructive solutions, polarizing positions rather than seeking common ground.
- ◆ Financially benefit foreign and domestic corporations while robbing us of basic protections we use to ensure healthy, safe, prosperous and comfortable communities.
- ◆ Be a cynical assault on the United States Constitution and the protections our Founding Fathers provided against the heavy hand of Government.

Don't fall for these fake property rights bills.

For the acknowledged problems in the administration of programs, there are real solutions. If federal bureaucrats are not being fair and reasonable to small property owners, remind them in no uncertain terms that they work for American Taxpayers.

Look at the real issues. Come up with real solutions.

Protect our rights. Let us protect our communities and America's priceless resources.

Sincerely,

Alabama Conservancy
Birmingham, AL

Alabama Historical Commission
Montgomery, AL

Alliance for Justice
Washington, DC

Alliance to End Childhood Lead
Poisoning
Washington, DC

American Federation of State
and Municipal Employees
Washington, DC

American Rivers
Washington, DC

American Planning Association
Washington, DC

American Oceans Campaign
Washington, DC

Americans for the Environment
Washington, D.C.

Appalachian Mountain Club
Boston, MA

Campaign to Save California
Wetlands
Oakland, CA

Campus Green Vote
Washington, DC

Center for Marine Conservation
Washington, DC

Chesapeake Bay Foundation
Annapolis, MD

City of Orlando Planning &
Development
Orlando, FL

Clean Water Action
Washington, DC

Coast Alliance
Washington, DC

Defenders of Wildlife
Washington, DC

Desert Fishes Council
Bishop, CA

Environmental Action
Foundation
Takoma Park, MD

Environmental Defense Center
Santa Barbara, CA

Environmental Research
Foundation
Annapolis, MD

Food & Allied Service Trades,
AFL-CIO
Washington, DC

Friends of the Earth
Washington, DC

Georgia Environmental Policy
Institute
Athens, GA

Greater Yellowstone Coalition
Bozeman, MT

Greenbelt Alliance
San Francisco, CA

Historic Charleston Foundation
Charleston, SC

Historic Landmarks Foundation
of Indiana
Indianapolis, IN

Indiana Planning Association
Muncie, IN

Izaak Walton League of America
Arlington, VA

Klamath Forest Alliance
Etna, CA

League of Conservation Voters
Washington, DC

Maine Audubon Society
Falmouth, ME

Mineral Policy Center
Washington, DC

Mississippi Wildlife Federation
Jackson, MS

Oklahoma Wildlife Federation
Oklahoma City, OK

SC Coastal Conservation League
Charleston, SC

Montana Preservation Alliance
Great Falls, MT

1000 Friends of Oregon
Portland, OR

Sierra Club Legal Defense Fund
Washington, DC

National Audubon Society
Washington, DC

Oregon Natural Resources Council
Portland, OR

Sierra Club
San Francisco, CA

National Growth Management
Leadership Project
Washington, DC

Oregon State Public Interest Research
Group
Portland, OR

South Carolina Downtown
Development Assn.
Columbia, SC

National Parks & Conservation Assn.
Washington, DC

Openlands Project
Chicago, IL

The United Methodist Church
Board of Church and Society
Washington, DC

National Recreation and Park
Association
Washington, DC

Pacific Rivers Council
Alexandria, VA

The Wilderness Society
Washington, DC

National Trust for Historic
Preservation
Washington, DC

Pennsylvania Federation of
Sportsmen's Clubs
Harrisburg, PA

20/20 Vision National Project
Washington, DC

National Urban League
Washington, DC

Physicians for Social Responsibility
Washington, DC

Unitarian Universalist Association
Washington, DC

National Wildlife Federation
Washington, DC

Planning & Conservation League
Sacramento, CA

United Steelworkers of America
Washington, DC

Natural Resources Council of Maine
Augusta, ME

Public Employees for Environmental
Responsibility
Washington, DC

US Public Interest Research Group
Washington, DC

Natural Resources Defense Council
New York, NY

Save the Bay
Providence, RI

Vermont Planners Association
Montpelier, VT

New Jersey Audubon Society
Franklin Lakes, NJ

Save the Dunes Council
Michigan City, IN

Washington Wilderness Coalition
Seattle, WA

TAKINGS PROPOSALS THREATEN PROPERTY VALUES

Americans seek a balance between competing interests so that communities can grow and prosper while protecting the best qualities for everyone. It is a balancing process that requires constant and significant citizen involvement. Takings legislation is a back door attempt to throw off that balance and to make it so expensive and cumbersome for agencies to enforce laws that citizens will be denied meaningful participation to protect their homes and neighborhoods.

Proponents of takings legislation wave a "property rights" banner, but choose not to talk about the negative impact the legislation would have on the economic value of real estate. Land use and resource protection laws were enacted originally because the cost and risk to property owners in a society where there were not laws to protect them from damage to the quality and character of their property was too great.

The first zoning ordinance in the United States was adopted in 1918 in New York City at the insistence of conservative business owners who felt that their investment in real estate was at risk because they had no idea what might be built next door. When a dirty industrial plant began operation next to a newly constructed department store, the real estate value for the property owner who had built the department store was substantially reduced. After many of these incidents, the political demand for zoning controls to protect investments grew, and the City of New York began to control private use of land.

A recent study (1991) by the Government Finance Research Center of the effect of local historic district ordinances on residential and commercial property values found significantly greater overall increases in property values within districts that were subject to the ordinances than comparable properties outside the district (e.g. residential properties increased 600% over a twenty year period, in contrast to comparable property outside of the historic district increasing 400%). Clearly, if a single property owner had been allowed to fully develop their property that single owner would have made a greater profit, but surrounding properties over time would have been limited in their appreciation.

Similarly, laws that protect the quality of drinking water, rivers and lakes, reduce air pollution, and protect other resources contribute to higher and more stable real estate values in communities. Surveys to determine where Americans choose to live consistently list clean water and air, as well as recreation and other quality of life factors, as reasons people want to buy real estate and live in a community. Community leaders rely on fair and full enforcement of resource protection laws to maintain the positive qualities of their communities.

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Ironically, the proposals to protect property "rights" would significantly threaten property values. If a community has to use tax dollars to pay an industrial property owner in order to enforce laws that would prevent that corporate property owner from using their property in a way that would damage the drinking water or pollute the air, the government may be unable to enact and enforce these laws. The result would be, however, that residential property investments would be less secure as quality of life in the community declines.

For more information on the effect of takings proposals on real estate values, contact Catharine Gilliam at American Resources Information Network, 202/673-4143.

AMERICAN WORKERS TAKINGS BILLS: WORKPLACE HEALTH AND SAFETY AT RISK

The Occupational Safety and Health Act of 1970 (OSHA) guarantees every American worker the right to a safe and healthy workplace. Yet since OSHA was passed 24 years ago, more than 250,000 workers have been killed on the job, over 100 million work-related injuries have occurred, and up to 2 million workers have died from occupational disease. Each year, 10,000 workers are killed by workplace hazards - that's one worker every hour of every day! Each year, 6 million workers are injured on the job, and 60,000 are permanently disabled. Tens of thousands more die each year from the long-term effects of occupational diseases like asbestosis and brown lung.

These alarming statistics have led to the introduction in Congress of legislation to strengthen the original OSHA law. One of the key features of the OSHA reform bill would call for the establishment of joint labor-management safety and health committees in all workplaces with more than eleven employees. There is overwhelming evidence that such joint committees have already reduced workplace injuries and fatalities in those few states where they now exist. Unfortunately, the proponents of takings bills argue that Congress cannot legislate this improvement of OSHA without paying businesses to comply with this or any future OSHA improvement. **In effect, takings proponents would require Federal taxpayers to begin paying employers not to endanger or kill their workers on the job!**

Improving workplace health and safety is not only morally right, it is good for businesses' bottom line. States with stronger health and safety programs have far fewer fatalities and injuries than those that do not. This translates into higher productivity and lower workers' compensation premiums for business.

The National Safety Council found that in 1992, workplace injuries and fatalities cost employers \$115 billion in workers' compensation, medical costs, lost time, and lost productivity. Since 1990, Oregon employers have saved over \$1 billion in workers compensation and related costs since implementing health and safety committees and other reforms. Ontario province in Canada, which has had such committees in place for several years, has a far lower workplace fatality rate than the United States.

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Legislation which construes government regulation of workplace health and safety to be a taking of property is hazardous to all working men and women of America.

For more information on the effect of takings proposals on workplace health and safety, contact Steve Francisco, United Steelworkers of America, 202/638-6929.

THE ENDANGERED SPECIES ACT: MYTHS AND FACTS

THE KANGAROO RAT AND THE RAGING INFERNO **The Truth About The California Fire**

The saga of the California fires is perhaps the greatest Endangered Species Act (ESA) horror story since the snail darter. Extensive news coverage made the story a familiar one. In late October of 1993, wildfire swept through Riverside County California, destroying 25,000 acres and 29 homes. Almost before the smoke had cleared, the media was filled with reports that protection for habitat of the endangered Stephens kangaroo rat was responsible for the carnage. ABC newsmagazine "20/20" aired a segment featuring victims of the fire condemning the ESA for preventing them from effectively removing highly flammable brush from around their homes. Prevented by the ESA from "disking" adequate firebreaks, the story went, residents could only stand idle as fire consumed their homes. The story even had a maverick hero, Michael Rowe, who, ignoring the law, leapt up on his tractor and disked his property as the flames approached. Only his bold action, the story went, saved his home. An angry rancher who was not so fortunate told L.A. Times: "My home was destroyed by a bunch of bureaucrats...and...environmentalists who say animals are more important than people. I'm now homeless, and it all began with a little rat."

As one commentator noted succinctly in the Washington Post, "Great story. But it turns out not to be true." In July of 1994, the General Accounting Office (GAO) released a detailed report about the Riverside County fire. Over a period of four months, GAO investigators reviewed documents, interviewed local, state, and federal officials, and scientific experts, and inspected several locations in the burn area. Fire experts told of an inferno of such magnitude that they had difficulty "describing the fire to someone...if that person did not experience it." The California fire was a 100-to-150 foot wall of flame, driven by 80-mile-per-hour winds that leapt over highways, cleared fields, even canals in its path. According to local fire officials, "the fire moved with such ferocity that clearing hundreds of feet of ground would not have helped." "We believe," the report concluded, "on the basis of the experience and views of fire officials and other experts, that the loss of homes during the California Fire was not related to the prohibition of diskings in areas inhabited by the Stephens' kangaroo rat."

The report went on to dispel much of the sensational misinformation disseminated in the early press coverage, most notably the story of Michael Rowe. When interviewed by GAO investigators, Rowe admitted that a shift in the wind just as the fire was poised to consume his property contributed to his salvation at least as much as diskings. The report also noted that some homes were destroyed despite being surrounded by a disked firebreak. Others that had taken no steps at fire suppression survived. The deciding factor, according to one woman whose home was spared, was "the capriciousness of the fire."

Though diskings were prohibited, other methods of fire suppression, such as mowing,

were available to the 29 homeowners. Nevertheless, the investigators found that 23 of the destroyed properties showed no evidence that any brush abatement had been performed.

Southern California has what have been called "the most severe wildfire conditions in the world." In recent years, those conditions have been exacerbated by increased homebuilding bringing more burnable materials, more powerlines, more inter-mix between urban areas and wild grasslands, and more potential fire-starters to the area. According to county statistics, one in four homes in the county is at some point affected by fire. The loss of 29 homes to the flames was without question a great tragedy, but, under the circumstances described above, it is simply ludicrous to lay the blame for the damage of the Riverside County fire on the ESA.

The damage wrought by the California fires was all too real, but the legend that grew up around it, fostered by opponents of the ESA and fed by the press, has no basis in fact. Such ESA horror stories must always be greeted with skepticism, and an effort to learn all the facts. For more information, and the real story, contact the Endangered Species Coalition at 202/547-9009.

THE ENDANGERED SPECIES ACT SOME INFORMATION ABOUT MISINFORMATION

Perhaps no other important environmental issue has been so plagued by misinformation as the debate over the Endangered Species Act (ESA). Opponents of the Act, faced with a paucity of legitimate arguments against it, have often resorted to misleading statements and exaggerated anecdotes to make their points with the public and Congress. Below are just a few examples.

Half-Truths and the Whole Truth

Half-Truth: Only a handful of species have ever been removed from the endangered species list, a sure indication that the ESA is a failure.

The Whole Truth: Though the ultimate goal of the Act is full recovery, its first mission to prevent extinction. In this regard, the ESA has been remarkably successful. Over 230 listed species are in stabilized or improved condition due to the Act's protection. Many others, including the California condor, the black-footed ferret, the whooping crane and the red wolf, have been pulled back from the brink by the protections of the Act. Species are listed only when they are in the gravest danger of extinction; one cannot expect them to be brought to full recovery quickly and easily. Nevertheless, the ESA can boast several successful recovery efforts, including the gray whale (removed from the list entirely) and the bald eagle (recently upgraded to threatened).

Half-Truth: The ESA does not take social and economic impacts of endangered species protection into account, putting the needs of animals and plants over the needs of people.

The Whole Truth: In fact, the ESA requires that protection for listed species be balanced with the requirements of economic development. The Act limits only the listing decision to strictly biological factors. The ESA provides for consideration of social and economic factors in critical habitat designation, regulations regarding protection for threatened species and experimental populations, the issuance of incidental take permits, the development of reasonable and prudent alternatives for

Half-Truth: The ESA interferes with the private landowners' right to make full economic use of their land, and "takes" their property in violation of the Fifth Amendment to the U.S. Constitution.

The Whole Truth: The ESA prohibits destruction of habitat that supports a priceless

public resource: the Nation's heritage of wildlife and plants. It does so, however, while providing adequate means to accommodate the development needs of private landowners, most notably through habitat conservation planning and incidental take permits. As for the Fifth Amendment, no federal court has ever found that a regulation under the Act resulted in a "taking."

Horror Stories and the Real Story

The horror story is a favorite tactic of ESA opponents. These claims of hardship inflicted on innocents by an inflexible ESA should never be taken at face value. Often they tell only part of the story, and sometimes they are simply false. For example:

The Candidate and the Slug An Oregon gubernatorial candidate recently attempted to whip up anti-ESA furor by tapping a dry spigot to dramatize a conflict between protection for the Malone jumping slug and construction of a reservoir for the city of Portland. "Slugs are not as important as people!" he declared. In his enthusiasm the candidate ignored the facts: the U.S. Fish and Wildlife Service (FWS) declined to list the slug, and Portland has not yet decided whether to build the reservoir. Despite his best efforts to manufacture one, there was no controversy.

The Sturgeon Scare A hysterical editorial in a prominent national newspaper claimed that efforts to protect the Alabama sturgeon would sharply curtail dredging in several southern rivers. As a result, navigation channels would silt up, stopping barge traffic and costing 20,000 jobs. In fact, the Corps of Engineers stopped dredging on most of those rivers over five years ago, favoring other methods, such as channel training works, to keep channels clear.

The Texas Widow In testimony before the Senate Environment and Public Works Committee, an indignant ESA opponent told the story of a widow in Texas who came "under federal investigation" when she attempted to clear her fence row of brush. "If you can't repair your fences," he warned, "you can't run cattle." He failed to add that, after meeting with the woman and assessing the impact on an endangered songbird, FWS approved the clearing of the brush. Again, opponents of the ESA attempted to create a controversy where none existed.

The Golden-Cheeked Warbler According to recent stories, the U.S. Fish and Wildlife Service is preparing to designate 7 million acres in 33 central Texas counties as critical habitat for the endangered golden-cheeked warbler. In reality, the FWS is considering the designation of approximately 800,000 acres near Austin. Furthermore, critical habitat designation only affects the actions of public agencies, not private landowners. Thus anti-ESA rhetoric significantly mischaracterized the impact of critical habitat designation both with regard to size and legal effect. For more information, contact the Endangered Species Coalition at 202/547-9009.

THE ENDANGERED SPECIES ACT PROTECTS US ALL

The Endangered Species Act (ESA) was passed in 1973 by overwhelming majorities in both houses of Congress. Since then, the Act has been amended several times, but its basic requirements and prohibitions remain unchanged. Has the ESA enjoyed such widespread and consistent support because Congress has historically been peopled by a band of wild-eyed nature lovers? Of course not. Rather, the Congress recognized the tremendous "esthetic, ecological, educational, historical, recreational, and scientific value [of species] to the Nation and its people."¹ By protecting the treasure house of biodiversity, Congress was acting to safeguard the interests of the American people. What was true then is still true today. Now more than ever, the ESA protects not only imperiled species, the ESA protects us. A few examples:

Medicine: A host of pain-killers, anti-inflammatories, and tranquilizers are derived from wild species. A supposed "garbage tree" from the Pacific Northwest produces a cancer-fighting agent, another a promising weapon in the battle against AIDS. About 25% of prescription medicines sold in the U.S., contain at least one compound originally derived from a plant. The value of plant-based medicines was estimated in 1984 to be \$20 billion. A vast pharmacopeia remains to be explored, but, as Dr. Thomas Eisner warns, "The chemical treasury is literally disappearing before we have a chance to assess it." Some scientists estimate that species are going extinct around the world at the astounding rate of 100 per day. A strong ESA is a vital step in reversing this tide of extinction, preserving potential life-saving medicines for ourselves and our children.

Agriculture: Farmers have known for a long time that a key to healthy crops is genetic diversity. In 1970, Southern leaf blight destroyed 15% of the U.S. corn crop, an economic loss of up to \$1 billion. The crisis was averted when farmers introduced different genetic strains of corn that were less vulnerable to the blight. A rare wild corn discovered in Mexico in 1978 is immune to two of the most serious viral diseases

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¹ Congressional findings, Endangered Species Act, 16 U.S.C. 1531 (a) (3).

plaguing U.S. corn crops. It is estimated that an increase in yield of 1% due to heightened disease resistance would be worth \$150-200 million to American farmers. The world food supply is dangerously dependent on a few widely produced plant and animal species with little genetic variation. The answer to this dilemma lies in abundant biological diversity protected by a strong ESA.

Ecosystem Health: "Ecosystem" is not a word that applies solely to plants and animals. We are all part of the ecosystems in which we live, and our health is just as dependent on them. Twenty-five years ago, plummeting populations of songbirds and birds of prey like the bald eagle were the first warnings of the insidious threat of DDT and other toxins in our environment. Today, mounting evidence of reproductive problems in wildlife due to prolonged chemical exposure is leading investigators to look for those effects in humans. Rapid decreases in the populations of key species are often the first sign that an ecosystem is in trouble. Like the famed "canary in the coal mine," an endangered species is a signal that something is seriously wrong. The ESA provides not only the mechanism to sound that warning, it also provides the opportunity to deal with problems of ecosystem health before they threaten human beings.

The Economy: The economic value of species, and the potential economic loss due to extinction, is incalculable. Plant-based medicines have generated billions of dollars, and only 5% of the world's known plant species have been investigated for pharmaceutical properties. Agriculture has reaped huge economic benefits from crops strengthened with genetic material found in nature. Wild fish species support a multi-billion dollar industry that contributes to the livelihood of over 200 million people world-wide. Moreover, the economic benefits of species are not solely derived from their "use." Often just the presence of endangered wildlife is an economic boon to nearby communities. In the Platte River area of Nebraska, for example, visitors seeking a glimpse of the endangered whooping crane pumped \$15 million into the local economy in 1991 alone. In this country, wildlife-related recreational activities (e.g. hunting, fishing, bird-watching, tourism) generate over \$50 billion annually. The ESA, by conserving the great diversity of species, protects this tremendous economic resource.

The Future: Naturalist Charles Beebe wrote: "When the last of a species breathes no more, another heaven and earth must pass before such a one can be again." The ESA is perhaps above all else a commitment to the future. We will never again see a passenger pigeon or a Carolina parakeet. But a strong ESA will help ensure that our children and theirs will see grizzly bears and whooping cranes and enjoy all the benefits of our priceless natural heritage. The ESA protects us, and all those who come after.

WETLANDS: HORROR STORIES AND THE REST OF THE STORY

Scores of "horror stories" have been circulated which "demonstrate" that the Clean Water Act's Section 404 federal wetlands permit program is unfair. Upon examination, however, the "horror stories" turn out to be half-truths and outright lies. Those that propagate these stories are attempting to manipulate Congress into supporting the dismemberment of wetlands protections. Don't be tricked by lies into supporting wetlands "reform". Here are several examples of the truth behind wetlands "horror stories":

The Pozsgai Story:

The press and several members of Congress tell the story of John Pozsgai, an alleged "innocent victim", whose American dream was shattered when he was sentenced to jail and fined \$200,000 for illegally filling wetlands to expand his mechanic shop.

The Rest of the Story:

In reality, Pozsgai was far from innocent. He knew the property was a wetland before buying it, and completely ignored repeated warnings that he needed a permit before building. He was given a court order to stop, and ignored that as well. In court, Pozsgai was so belligerent that the judge was forced to recommend that Pozsgai's attorney inform him of the penalties for perjury. Had he simply cooperated with the agencies rather than stubbornly ignoring them and violating the law, Pozsgai would likely have received his permit and never have been taken to court.

The Bill Ellen Story:

The Wall Street Journal has publicized the story of Bill Ellen, an "innocent" developer sentenced to six months in prison for destroying wetlands, even though he supposedly had the necessary permits. In this story, it is also claimed that Ellen was victimized by shifting regulatory definitions of wetlands.

The Rest of the Story:

In reality, Ellen was warned by civil engineers and contractors working with him that a Section 404 permit would be required for his project. Despite these warnings, he began to fill wetlands illegally. Later, the U.S. Army Corps of Engineers issued three "cease-and-desist" orders directing Ellen to halt construction, but he ignored all of these orders. As for the wetlands definition used by the government, it was irrelevant, because the wetlands he destroyed qualified for protection under any definition.

The Ocie Mills Story:

Mr. Mills was cited for violating Section 404 of the Clean Water Act, and he and his son were fined \$5,000.00 each and put in jail for almost two years. He has argued that the sentence was inappropriate for the filling of a half-acre of "questionable" wetlands, and has claimed that in fact the property was an upland area not subject to permitting requirements. Mills portrays himself as an innocent private property owner who has been prohibited from exercising his basic constitutional rights.

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The Rest of the Story:

Court records from the case imply that Mr. Mills bought this piece of property with the intent of using it as a tool through which he could fight the federal government. At the time of purchase, Mr. Mills was fully aware that the previous owner had received a "cease-and-desist" order for development work on the property. Despite this, Mills began an extensive dredge and fill project on the property. Mr. Mills was served a "cease-and-desist" order from the Army Corps of Engineers for this work. In response, Mr. Mills and his son, Carey, sent a letter to the Corps stating their intention to ignore the order and to continue their activities until and unless brought to court. Two subsequent "cease-and-desist" orders were also ignored, and the Mills' were brought to trial. Had the Mills' worked with the agencies instead of against them, they probably would have received a permit and construction would have proceeded.

The Ray Hendley and Statesboro, Georgia, Swamp Story:

The Washington Post published a story about Ray Hendley, who constructed five new houses, but was required to remove two of them because the Corps and EPA said he had illegally filled wetlands. The story asserts that Hendley could not have known the land in question was a wetland, and that he was an "innocent victim" of overzealous federal regulators.

The Rest of the Story:

The Post article failed to mention that after Hendley began to fill in lowlying areas of his property, he was issued two "cease-and-desist" orders for the project. In addition, Hendley had been cited previously by the EPA for illegally filling wetlands in a different area. Hendley ignored these warnings and continued his project. The EPA did not force him to remove all of the houses, as the law would provide, but instead negotiated an agreement requiring him to remove only two houses and the fill material that was on the lowest part of the site.

Shortly after he began filling the wetland, his neighbors' properties were flooded, as water from Hendley's former wetland was diverted to their properties. Thus, the true "innocent victims" in this story are Hendley's neighbors.

The Crawfish Story:

The Louisiana Congressional delegation has cited the case of Melvin Domingue, who was denied a Section 404 permit and thus prohibited from building levees for a crawfish farm.

The Rest of the Story:

The "after-the-fact" permit was denied for a number of reasons. Mr. Domingue noted in his own application for a Section 404 permit that there were alternative, less ecologically-damaging sites available. In addition, the Corps developed a proposal for a small design change which would have precluded the need for a permit altogether. Mr. Domingue steadfastly refused to incorporate these changes, however, and ultimately failed to obtain his permit.

These stories and others like them have been propagated by "takings" proponents. Don't let lies and exaggerations cloud the truth about "takings" and the large industries and powerful large landowners that fund the movement and determine its agenda. Protect property rights for average Americans by opposing "takings" legislation!

A GUIDE TO TAKINGS BILLS IN THE 103RD CONGRESS

The following takings bills have been introduced in the 103rd Congress. Some deal strictly with takings while others are proposed amendments to existing legislation. If enacted, any of these bills would seriously undermine laws that protect our health and safety, worker protection, civil rights and environmental protection. If you are asked to cosponsor or support these bills, we urge you to carefully examine their far-reaching ramifications. If you have any questions or would like more information, please contact American Resources Information Network at 202/673-4143.

BILLS INTRODUCED IN THE HOUSE OF REPRESENTATIVES

- H.R. 385 The Private Property Rights Act
by Rep. Gerald Solomon, (R-NY)
- H.R. 561 The Private Property Protection Act
by Rep. Gary Condit, (D-CA)
- H.R. 1330 The Comprehensive Wetlands Conservation and Management Act
by Rep. Jimmy Hayes, (D-LA)
- H.R. 1490 The Endangered Species Act Procedural Reform Amendments
by Rep. Billy Tauzin, (D-LA)
- H.R. 3875 The Private Property Owners Bill of Rights
by Rep. Billy Tauzin, (D-LA)
- H.R. 3978 The Endangered Species Management Act of 1994
by Rep. Richard Pombo, (R-CA)

BILLS INTRODUCED IN THE SENATE

- S. 177 The Private Property Rights Act of 1993
by Sen. Bob Dole, (R-KS)
- S. 1915 The Private Property Owners Bill of Rights
by Sen. Richard Shelby, (D-AL)
- S. 2006 The Private Property Rights Act of 1994
by Sen. Bob Dole, (R-KS)
- S. 2410 The Private Property Rights Restoration Act
by Sen. Phil Gramm, (R-TX)

WETLANDS AND SECTION 404 OF THE CLEAN WATER ACT SOME INFORMATION ABOUT MISINFORMATION

Takings proponents are attempting to undo protection for our nation's wetlands, claiming that taxpayers should pay big business to preserve these vital resources. Myths regarding Section 404 of the Clean Water Act, the law that protects our wetlands, abound. Here are some examples:

MYTHS AND THE FACTS

Myth: Wetlands protection in the Clean Water Act is an assault on property rights.

Fact: Wetlands protection actually helps protect and increase the value of private property. Wetlands prevent flooding and protect coast land by serving as giant sponges during floods and hurricanes. They serve as homes for millions of fish and shellfish, contributing to the billions of dollars in the commercial and recreational fishing industries. And, by encouraging landowners to preserve wetlands, Section 404 protects the entire community from floods and provides them with filtered groundwater.

Myth: If wetlands protection diminishes the value of a parcel of land, the property owner should be paid for that reduction.

Fact: Taxpayers should not be required to pay developers and big business **not** to increase the risks of floods, **not** to pollute streams and rivers, and **not** to deplete community water supplies. Yet this is exactly what proponents of takings legislation are calling for.

Myth: It would not be a major financial burden to require taxpayers to pay landowners not to destroy wetlands.

Fact: It would actually cost taxpayers **BILLIONS** of dollars to pay developers to obey the law under the various takings proposals before Congress. The Congressional Budget Office has estimated that the takings proposal in H.R. 1330 by Rep. Jimmy Hayes (D-LA) would cost between \$10 and \$15 billion to taxpayers. Rep. Billy Tauzin (D-LA) himself claimed that his takings bill, H.R. 3875, "will bankrupt us."

Myth: Farmers who have been farming their land for decades need to get a Section 404 permit to farm their land.

Fact: Wetlands protection under the Clean Water Act exempts ongoing farming, ranching, and silviculture activities from the permitting requirements. And, if a wetlands has been cropped continuously since passage of the first Clean Water Act (1972), the land is **completely exempted** from all permitting requirements.

For information, contact Clean Water Network at 202/624-9357.

WETLANDS PROTECT US ALL

A cornerstone of the Clean Water Act is Section 404 which protects our nation's wetlands. Although these valuable resources filter our groundwater, prevent flooding and provide essential habitat to fish and wildlife, wetlands are under attack by proponents of takings bills as useless swampland best filled in. However, wetlands protection is essential to protect the myriad benefits they provide to our economy. These benefits include:

Flood Control: In the decade prior to 1993, flood damages in the United States averaged nearly \$2 billion each year! One need only remember last summer's floods in the Midwest to understand what happens when we destroy wetlands. Exaggerated by huge wetlands loss and the building of some levees which prevented floodplain wetlands from performing their flood control functions, the damage to property owners in the region was devastating. Thirty-eight deaths were directly attributed to the floods and estimates of fiscal damages range from \$12 to \$16 billion. Agriculture accounted for over half of the damages as flooding prevented planting or killed crops outright. Nearly 50% of the roughly 100,000 homes damaged suffered losses to groundwater or sewer backup. The federal government estimates flood response and recovery costs to amount in excess of \$6 billion. And none of these costs reflect the overall costs to businesses, tax losses, etc.

Shoreline Protection: Coastal wetlands help protect adjacent and inland properties from hurricanes and other ocean storms by weakening the force of the storms and suppressing their accompanying surf. Unfortunately, the pressure to build on rather than protect our coastal wetlands is enormous, resulting in loss of homes and increased erosion of our shores.

Commercial and Recreational Fishing: Wetlands are essential homes for juvenile and larval stages of many species of fish and shellfish including shrimp, crabs, clams, oysters, sole flounder, herring and salmon. U.S. commercial fishermen harvested more than ten billion pounds of fish in 1993, employing more than a quarter of a million people. American consumers spent \$35 billion on seafood products and 36 million anglers spent \$24 billion on sports fishing in 1991. In Alaska, fishermen land six billion pounds of seafood each year, resulting in a \$3 billion a year state fishing industry. In California, dungeness crab landings brought California fishermen \$16 billion in 1991, U.S. shrimp harvests bring in half a billion dollars each year and in New England, the lobster industry brings in \$165 million.

ORGANIZATIONS WHO OPPOSE TAKINGS LEGISLATION

CIVILS RIGHTS GROUPS

Alliance for Justice
Farm Worker Justice Fund
National Urban League
League of United Latin American Citizens

RELIGIOUS GROUPS

United Church of Christ
The United Methodist Church
American Family Association
Unitarian Universalist Association

HEALTH GROUPS

American Public Health Association
Alliance to End Childhood Lead Poisoning
National Citizens' Coalition for Nursing Home Reform
National Council of Senior Citizens
National Association of Social Workers
Physicians for Social Responsibility
United Cerebral Palsy Association

CONSUMER GROUPS

Consumers Union
Consumers Federation of America
National Consumers League

LABOR GROUPS

AFL-CIO, Food and Allied Service Trades Department
AFL-CIO, Industrial Union Department
American Federation of State, County & Municipal Employees
(AFSCME)
Oil, Chemical, and Atomic Workers Union
Service Employees International Union
United Food and Commercial Workers International Union
United Mine Workers of America
United Steelworkers of America

PLANNING GROUPS

American Planning Association

(over please)

PLANNING GROUPS (continued)

American Society of Landscape Architects
City of Orlando Planning & Development
Indiana Planning Association
Sacramento Planning & Conservation League
Vermont Planners Association

HISTORIC PRESERVATION GROUPS

Alabama Historical Commission
Historical Landmarks Foundation of Indiana
National Trust for Historic Preservation
Preservation Action

PROFESSIONAL GROUPS

National Association of Social Workers
Business and Professional People for the Public Interest
Union of Concerned Scientists

PUBLIC INTEREST GROUPS

Center for Community Change
Garden Club of America
OMB Watch
Public Citizen
U.S. Public Interest Research Group
20/20 Vision National Project

STATE GOVERNMENTS OPPOSE TAKINGS LEGISLATION

In 1994, takings bills were introduced in over 30 state legislatures and the U.S. Congress. Fortunately, groups of committed citizens became aware of the weaknesses and dangers inherent in takings bills -- bills that could ultimately invalidate the occupational safety laws that protect workers, the zoning laws that protect our neighborhoods, and the health and safety laws that protect our children and communities. Consumer groups, labor groups, civil rights groups, environmental organizations, and thousands of individuals joined together and fought for the defeat of these bills. In most states, their efforts were successful. These efforts did not go unnoticed by state governments. The National Governors Association and the National Conference of State Legislatures have stood up against takings bills by adopting policies that oppose any type of statutory definition of takings.

THE NATIONAL GOVERNORS ASSOCIATION

"Compensation of Property Owners. The Governors believe that interpretation of the Fifth Amendment of the Constitution concerning the taking of property by government is the appropriate province of the courts, and that **legislative requirements are not warranted.** The Governors believe that Congress should not legislate a definition of compensable taking of private property through the Clean Water Act or otherwise. A statutory definition of a compensable taking would have far-reaching implications for state and local zoning, land management, and public health laws of all kinds."

NGA 1992 Annual Meeting Resolution 23.9.4.4

THE NATIONAL CONFERENCE OF STATE LEGISLATURES

"Governmental Regulation and "Takings" Under the Fifth Amendment. NCSL strongly opposes any legislation or regulation at the national level that would: 1) attempt to define or categorize compensable "takings" under the Fifth Amendment to the United States Constitution; or 2) interfere with a state's ability to define and categorize regulatory takings requiring state compensation. Such questions of constitutional dimension should remain a matter for case by case determination in line with Fifth Amendment jurisprudence."

NCSL policy resolution passed July 28, 1994

(OVER PLEASE)

TAKINGS BILLS WOULD COST AMERICANS DEARLY

"Takings" bills that have been introduced in the U.S. Congress and in state legislatures, if passed, could severely strain the budgets of federal agencies and state and local governments. In turn, the costs incurred by American taxpayers could total literally *billions* of dollars. If huge pay-offs to industries and powerful landowners could not be met, basic protections of public health and safety and the environment could be rendered unenforceable.

Takings Bills are "Budget-Busters"

- A March, 1994, report by the Florida Consumer Action Network revealed that under a proposed "takings" bill in Florida, taxpayer payments to just nine of the state's largest landowners could total an estimated **\$28 Billion**.
- In Wisconsin, the state estimated that under a proposed "takings" bill, the cost of reviewing state and local agency actions would total over **\$10 million** per year.
- Under federal "takings" bills such as Rep. Tauzin's (D-LA) H.R. 3875, the cost of paying-off property owners to comply with wetlands protections could reach **\$45 Billion** (Congressional Budget Office estimate of compensating owners of Class A wetlands under Rep. Hayes (D-LA) H.R. 1330 wetlands bill).

Takings Bills Could Fiscally Gut Basic Protections

- Many "takings" bills would require taxpayer payments to property owners in situations where their property has not, in fact, been taken under the Fifth Amendment and where a property use has been restricted to protect neighboring property owners.
- According to its sponsor, Rep. Tauzin, the "Private Property Owners Bill of Rights" (H.R. 3875) would **"bankrupt the government"** unless Congress rolls back existing environmental protections.
- In a January 19, 1994, letter to the Governor concerning a state "takings" bill, Alabama Attorney General Jimmy Evans wrote that "[takings] has the potential of **bankrupting not only the State of Alabama, but also all its counties and municipalities--** under the guise of protecting property owners.... Thus, the practical effect -- and I believe its intended effect - - would be to end effective zoning, environmental and health regulation, and land use planning..."

Most State Legislatures Have Soundly Rejected "Takings" Bills

During the 1994 legislative sessions, 80 out of 86 "takings" proposals were rejected, largely out of fiscal concerns. Of the six bills passed, most were limited in scope or were significantly watered down before approval. Dedicated citizens across the country have voiced their opposition to "takings" bills, both for the sake of basic protections that they rely on and for their wallets and pocketbooks.

STATE ATTORNEYS GENERAL OPPOSE TAKINGS BILLS

"Takings" bills have been introduced in the U.S. Congress and in state legislatures under the guise of protecting property rights. In reality, these bills would create a fiscal and bureaucratic nightmare, while undermining basic protections that safeguard American citizens and their property. State Attorneys General across the country have recognized the adverse implications of these bills:

"This bill has the potential of bankrupting not only the State of Alabama, but also all its counties and municipalities -- all under the guise of protecting property owners... You can imagine the devastating effect such legislation, if enacted, would have on the ability of Alabama government at all levels to exercise the most basic police powers. Thus, the practical effect -- and I believe its intended effect -- would be to end effective zoning, environmental and health regulation, and land use planning in the State of Alabama."

Jimmy Evans, Attorney General of Alabama, in a January 19, 1994 letter to Alabama Governor James Folsom opposing state "takings" bill H.B. 413.

"[The bill] would give the citizens of this state nothing other than an additional layer of bureaucracy and another batch of red tape... If this bill were to be enacted and we were to follow it to the letter, we quickly would be out of the business of protecting the public health, safety and welfare; instead we would be in the business of real estate and property appraisal."

Michael Rubin, Assistant Attorney General of Rhode Island, in a May 10, 1994, letter to Rhode Island State Senator Domenic A. DiSandro III opposing 94-H-8396.

"[P]roposals which seek to address property takings would set back the progress made in the area of environmental protection; would adversely impact the fiscal conditions of federal, state and local government; and would fail to reduce the amount of property takings litigation... Besides adversely affecting the implementation of regulatory programs at the federal level, these proposals would have far-reaching implications in land management decisions and in the adoption and implementation of public health and safety laws by states and local governments."

Robert A. Butterworth, Attorney General of Florida, in a April 23, 1992, letter to Representative Gerry Studds opposing national "takings" legislation.

"Those who advocate for additional legislative enhancement of private property rights fail to respect the important and delicate balance that the framers of the Constitution had in mind, a balance that protects property owners from undue government interference while at the same time allowing for reasonable laws that protect common interests and public needs."

Michael E. Carpenter, Attorney General of Maine, in a May 11, 1994 letter to Senator George Mitchell opposing "takings" bills including S. 177 and H.R. 3875.

"These bills would put a chilling effect on the efforts of conscientious government officials to enforce the environmental laws previously enacted by Congress... Without adequate enforcement of laws such as the Clean Water Act, the public will suffer the health effects that occur when higher quantities of pollutants are discharged to our oceans, lakes and rivers. If the provisions of the Clean Water Act prohibiting the filling of wetlands are not enforced, the public will experience such problems as unsafe drinking water."

Scott Harshbarger, Attorney General of Massachusetts, in a May 6, 1994 letter to Senator Edward M. Kennedy opposing "takings" bills, including Senator Dole's S. 177.

"Won't this bill require a huge governmental undertaking at the general public's expense when administrative and judicial mechanisms already exist for protecting owners of private property?"

Tom Udall, Attorney General of New Mexico, in a February 25, 1994, analysis of state "takings" bill S.B. 328.

"To legislatively clothe legitimate policy disputes with the mantle of takings jurisprudence invites, in my judgement, years of disarray in executive, legislative, and judicial decision making without any commensurate benefit to the interest of the public at large or the individual property owner in particular."

Jeffrey L. Amestoy, Attorney General of Vermont, in a May 6, 1994, letter to Senator James M. Jeffords expressing his view on the "takings" issue.

"[T]he U.S. Supreme Court has stated that it is unable to develop a 'set formula' for determining whether a regulation constitutes an unconstitutional taking... Thus, it is difficult, if not impossible, for the Attorney General to conduct a formal review of all proposed governmental action to determine whether such action results in an improper intrusion on property rights."

Daniel E. Lungren, Attorney General of California, in a April 5, 1993, letter to California Assemblyman Bernie Richter opposing a California "takings" bill, A.B. 145.

"Rather than add any real protection to private property, the enactment of H.R. 561 will simply add a whole new layer of bureaucratic review to the regulatory process. Thus, if this proposal becomes law, the absolutely certain consequence is that government programs will be less efficient and more costly. That is movement in the wrong direction at a time when there is a manifest need for government to be more efficient and less costly."

Ralph S. Tyler, Deputy Attorney General of Maryland, in testimony opposing Representative Condit's H.R. 561 "takings" bill.

State Attorneys General recognize that "takings" bills would create unnecessary bureaucracy, cost taxpayers dearly, and threaten American protections of people and property. If you haven't already, take a closer look at "takings."

EDITORIAL BOARDS NATIONWIDE OPPOSE TAKINGS LEGISLATION

Welfare For The Well-Heeled

"The absurd ramifications of such a ['takings'] law can only be imagined: Property owners near churches and schools paid for not opening liquor stores or nude dancing clubs; rural landowners paid not to install nuclear waste dumps; suburban developers paid not to put neon-lit convenience stores in the middle of residentially zoned subdivisions. The possibilities are endless - and bottomless."

Columbus Ledger-Enquirer, January 27, 1994

Wrong Results: Bill Hits Taxpayers, Homeowners

"Instead of protecting landowners, this [takings] bill could very well endanger the property rights of many landowners - especially homeowners. In addition, it could cost taxpayers untold sums of money and create a bonanza for trial lawyers by creating the potential for all sorts of new tort litigation."

Montgomery Advertiser, January 25, 1994

Legislature Should Quickly Kill Measure to Scrap Land-use Controls

"The [takings] legislation...is the brainchild of a select group of wealthy landowners and big-time developers. Their aim is obvious. Destroy the state's growth regulations so they can build whatever they want, wherever they want, regardless of the consequences for others."

The Tampa Tribune, March 9, 1993

Balancing Need And Greed

"Those who scream loudest about government regulation of property are usually those whose property benefits the most from government investment... Would [a developer] consider it a deal if government let him build on his wetland, but sent him a bill for the entire amount by which his property appreciated because of a government-built road? The point is, over a period of time government and business have struck a delicate balance between private greed and public need. Those who now seek to disrupt that balance had better think twice, because they may end up destroying a system that has allowed so many to profit."

The Atlanta Constitution, April 16, 1994

Public Interest vs. Private Rights: Taxpayers Shouldn't Pay To Stop Harmful Land Uses

"[This is] a dangerous measure concerning regulatory takings... Clearly, there's no fairness in allowing some individuals to use land in a way that could harm everyone else's property value."

The Seattle Times, February 21, 1992

Potential For Damage Hidden In 'Takings' Bill

"Where will the money to compensate landowners come from? It would come from vital state programs already facing tight budgets - from school, law enforcement programs, prisons. The state can't afford that."

Mobile Register, January 31, 1994

Don't Force Taxpayers To Pay Polluters Not To Pollute

"The measure...may appear innocuous, but it's actually an attempt to negate the whole concept of health, safety and environmental regulation by saddling the enforcement agencies with untenable costs... In addition, the proposal...could undermine a host of county and local laws covering everything from building heights to occupancy limits in restaurants... The so-called "takings" legislation should be rejected... It would force the taxpayers to pay despoilers of the environment not to do what they shouldn't be doing anyway."

The Denver Post, March 8, 1993

Take This Bill Away - Far Away

"This measure...is a nuisance and an attempt by groups such as the Missouri Farm Bureau to throw costly roadblocks in the way of government agencies acting for an overriding public benefit. The bill is not needed; property owners are well-protected today."

St. Louis Post-Dispatch, May 6, 1993

Nordhouse Dunes: Having To Pay To Protect Them Would Be Bad Precedent

"For nearly 70 years,...courts have upheld reasonable restrictions on property rights - zoning is the premier example - that serve a public purpose or prevent a nuisance. The takings advocates challenge that premise, beginning with environmental regulation, but the implications go well beyond that. The most zealous advocates of the pay-me position hope to use it eventually to stonewall or reverse a wide range of zoning, public health, worker safety, historic preservation, toxic clean up and other regulations."

Detroit Free Press, February 28, 1994

Private Property: The Name Is Fine, But This Bill Is A Disaster

"The practical result would be to bring state rule making, licensing and regulation to a halt... It is a draconian solution to a problem that exists mainly in the minds of the cattle, timber and agricultural industries."

The Arizona Daily Star, April 19, 1992

Only 'Right' In This Case Is The Right To Plunder

"Consider the views of [the] chairman of the Council on Property Rights: "The real question...is who pays to protect the environment ... I believe they should pay for what they take." Think about that. [He] is saying taxpayers must pay speculators not to poison the water or the air. That sounds more like extortion than constitutionalism."

The Palm Beach Post, February 13, 1994

The Atlanta Journal

THE ATLANTA CONSTITUTION

Today's editorial pages are edited by the editorial board of The Atlanta Constitution.

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EDITORIAL

Come back to earth

To hear people in Washington talk, Americans are angrily demanding a wholesale gutting of the nation's environmental laws. And Congress is frighteningly close to succumbing to that demand.

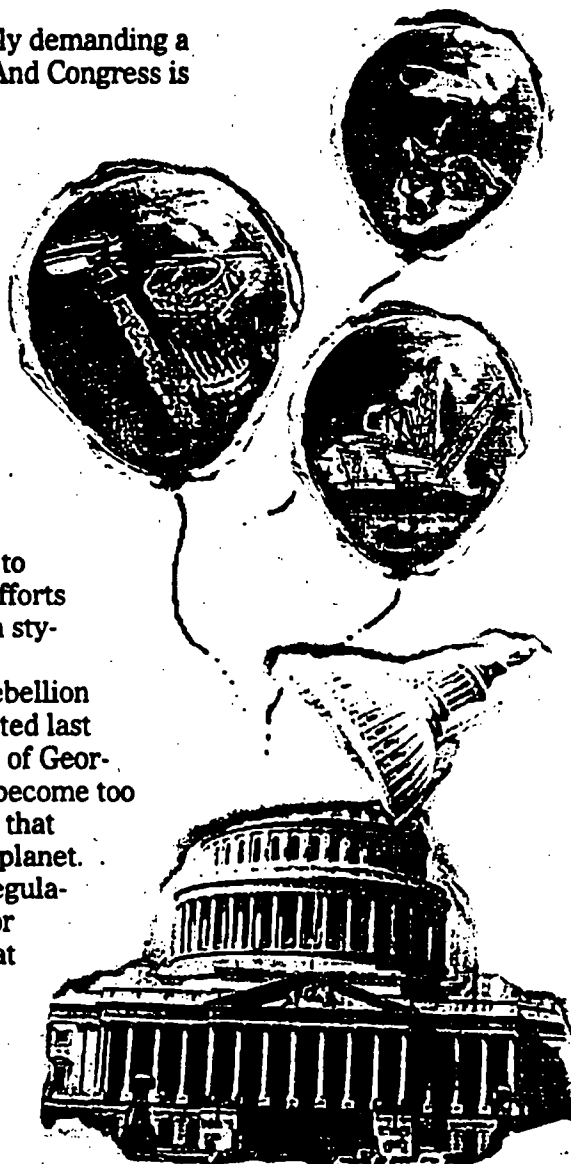
"It's almost tea party time in America," predicts an ebullient U.S. Rep. Billy Tauzin of Louisiana, one of the leaders of the anti-environment crusade. "Clearly, the teapot's boiling here. It's steaming and the lid's about to blow." The Wall Street Journal's editorial page chooses a different metaphor, observing that "a tsunami of anger is rolling across the land and, with any luck, it will drench Congress and its co-conspirator regulators."

Tsunami or Boston Tea Party, such talk has had a critically important impact in Washington. The Endangered Species Act, the Clean Water Act, the Safe Drinking Water Act, and the Superfund Act are all up for renewal and all are in danger of being gutted to appease this supposed popular rebellion. A bill to raise the Environmental Protection Agency to Cabinet-level status has been killed for the same reason, and efforts to protect federal land from mining and overgrazing have been stymied as well.

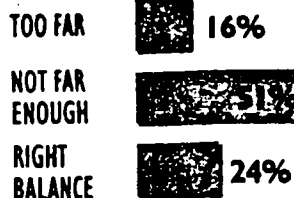
And yet, out here in the hinterlands where this tsunami of rebellion is supposedly building, things are oddly quiet. In a poll conducted last December by The Atlanta Journal-Constitution, only 6 percent of Georgians believed that environmental regulation in this state had become too strict. In polling data, 6 percent is a tiny number: You can find that many people who believe Bill Clinton is an alien from another planet.

Georgians are hardly unique in supporting environmental regulations. A nationwide poll conducted this spring for Times-Mirror Magazines found that only 16 percent of Americans believe that environmental regulation has gone too far, while 53 percent believe it has not gone far enough.

On individual issues, support for current or enhanced environmental protection is even more overwhelming. For example:



Q: Have regulations to protect endangered species gone too far, not far enough, or have they hit the right balance?



Source: Times-Mirror Magazines poll, April 1994

Staff

THE ENDANGERED SPECIES ACT

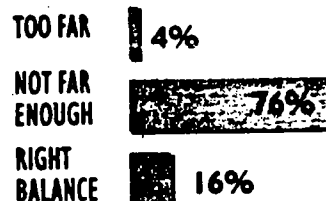
In Washington, Congress is being told that the American people are outraged because endangered species are being protected while human beings are ignored. First, that's a gross mischaracterization of the act's impact; in the past 20 years, 118,000 proposed projects have been reviewed under the Endangered Species Act, and only 33 were blocked. Furthermore, in the Times-Mirror poll, only 16 percent of Americans said regulations to protect endangered species have gone too far.

THE CLEAN WATER ACT

City, county and state officials are angry because the act forces them to stop dumping raw sewage into rivers and lakes. They either want the law to be rewritten or the federal government to pay for local sewage-treatment facilities. "Something has to be done or all hell is going to break loose around the country," warns Ohio Gov. George Voinovich.

Who is going to raise that hell? According to the Times-Mirror poll, only 4 percent of Americans believe that government has gone overboard in protecting water quality.

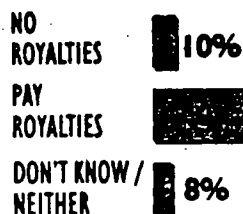
Q: Have regulations to prevent water pollution gone too far, not far enough or hit the right balance?



Source: Times-Mirror poll

Staff

Q: Should the mining industry be required to restore federal land and pay royalties to the government, even if the industry is already hurt by imports?



Source: American Mining Congress poll, 1990

Staff

MINING REFORM

Earlier this year, a Canadian mining company paid the federal government \$9,745 for a gold mine on U.S. property worth an estimated \$10 billion. The law that allows such outrages was passed back in 1872, and the Clinton administration is trying hard to rewrite it. But mining industry supporters, citing this supposed public backlash against environmental-protection efforts, have been able to block that reform.

The mining industry knows that the supposed backlash is a myth, because it has run a poll of its own. According to an internal memo of the American Mining Congress, that polling data "provides the most concrete evidence that the industry should not conduct the Mining Law battle in public view."

Instead, the mining industry, together with the oil industry, Western ranchers, big-time farmers and real-estate developers, have financed a highly successful yet very quiet public-relations campaign aimed directly at Congress. By creating front groups and generating phone calls and letters, they succeeded in creating the illusion of a rebellion where none exists.

It's like a scene out of an old cavalry movie, where the outmanned commander paints logs to look like canons and marches his handful of soldiers in a circle to create the illusion of a massive army.

The ploy has been wildly successful, in part because so many congressmen have been willing dupes. They believe this talk of a backlash because they want to believe it. It gives them an excuse to do the bidding of the special interests who finance their campaign commercials, the very ads in which the congressmen tout their independence from special interests.

In the next year, Congress will determine the direction of U.S. environmental policy for the next two decades. This is a critical time, politically as well as environmentally. If Americans, by their silence, allow the illusion of a backlash against the environment to go unchallenged, they and their children will pay a high price. Write your congressman or senator. If you don't speak for yourself, someone else will claim to speak for you.