

Statement of Edward J. Markey, Ranking Member
Full Committee Oversight Hearing on
"Taxpayer-Funded Litigation: Benefitting Lawyers and Harming Species, Jobs and Schools"
June 19, 2012

This week on the House floor Republicans are pursuing their 'Great American Giveaway.' Two omnibus Republican bills would hand out millions of acres of land to oil and gas companies, hand pick old-growth forests for logging interests, and trample on the rights of Americans living, working or traveling within 100 miles of our borders.

Today's hearing on the Endangered Species Act is another example of the Great American giveaway. In addition to selling off our public lands to Big Oil and relinquishing our Constitutional rights to Big Brother, Republicans are questioning the rights of Americans to challenge government actions in the courts. They are attacking the ability of citizens to bring suits against the federal government when it fails to follow the law. Without this check, the oil, mining and timber industries can maximize their influence on government actions without any serious check from the public.

According to the Majority's analysis of information provided by the Department of Justice, the federal government has reimbursed almost \$13 million in attorneys' fees since 2009 in cases involving the Endangered Species Act. That works out to an average of \$3.7 million per year. In comparison, last year House Republicans proposed to cut money for endangered species programs \$72 million below the president's fiscal year 2012 request. These proposed cuts to resources for recovering species was almost 20 times more than the average attorney fees paid per year. If the Republican majority really wanted to help species recover, they would be adding funds for endangered species restoration, not subtracting them.

The Majority has also raised questions about individual Endangered Species Act cases with large payment of attorneys' fees. Those too should be put in perspective. For example, in 2006, the Bush administration paid out \$18.7 million in a single telecommunication case that the government lost. One case! Since 2009, \$8.7 billion has been paid out of the Judgment Fund. Attorneys' fees for cases involving the Endangered Species Act are less than two-tenths of one percent of that total. Of course the Judgment Fund is part of the Treasury Department. Awards made from it don't come from funds appropriated to agencies. The Republican argument that litigation somehow hinders the recovery of endangered species just doesn't add up. The cost of such litigation makes up a tiny fraction of all of the cases successfully brought against the federal government each year.

In reality, dealing with litigation is just a small part of the work done by the federal government to protect endangered species. The vast majority of the government's time and effort is spent on conservation. Just last week an historic agreement between the Fish and Wildlife Service and the states of Texas and New Mexico protected critical habitat of the Dunes Sagebrush lizard and kept it from being added to the threatened species list. Even Congressman Steve Pearce called these plans "some of the most successful ever." Around the country, government scientists are working with states, counties, cities and individual land owners to develop science-based solutions that work for people and protected species.

Contrary to the claims of some, the Endangered Species Act has done exactly what it was intended to do: help wildlife, plants, and fish survive. Since its enactment in 1973, only 2 species on the endangered list have gone extinct -- an over 99 percent success rate in avoiding extinction. Recovery of species is also on track. A recent analysis found that 90 percent of species are recovering at the rate specified by their federal recovery plans. No one can call that failure.

Extinction is forever. It is the ultimate giveaway. We will never know the benefits that might have come from species that have disappeared from the Earth. That's why the vast majority of Americans, of all ages, ethnicities, and education, both Democrats and Republicans, strongly support the Endangered Species Act.