

**Statement of Nick J. Rahall
Ranking Democrat
House Resources Committee
H.R. 3824
Threatened and Endangered Species Recovery Act of 2005
September 29, 2005**

Mr. Speaker, Chairman Pombo and I have been working together the last several months to try and find common ground on amendments to the Endangered Species Act.

I came to our discussions with the view that the ESA does not need amendment. Most of its problems could be fixed by additional appropriations or administrative changes that this Administration is not willing to make.

While Chairman Pombo and I did not reach agreement, and I do not support his bill, we came a long way.

Yet we still have differences that divide us – differences, in some instances, that I have yet to discover. In fact, the managers amendment has been redrafted so many times, the latest version is still hot from the presses.

I wish this bill was not being rushed to the House floor. I wish that the driving force was not the zeal to pass anything that could be labeled ESA reform, and instead was truly species recovery.

With a little more time to consider how much this bill is going to cost, the taxpayers would at least have had a chance to see how much they are going to lose in exchange.

In the last several hours, the bill passed out of Committee has completely blown apart. For example, the managers amendment abandons the definition of jeopardizing a species we agreed upon in Committee.

Instead, the Secretary of the Interior will use existing regulations which allow Federal actions to proceed, even if they will reduce the likelihood of a species' survival and recovery. The survival standard is akin to keeping a patient on life support without any chance of recovery.

According to the Congressional Budget Office, if this is enacted into law, it will increase direct spending, and would cost almost \$3 billion to implement from 2006-2010.

So in my view, this bill offers endangered species less protection at far greater cost. Not only was fiscal responsibility thrown to the wind in this process, but we have turned back the clock to an era in which DDT was commonly known as Drop Dead Twice.

H.R. 3824 includes a provision adopted in the Resources Committee that would repeal the Endangered Species Act provisions that protect threatened and endangered species from the harmful impacts of pesticides.

H.R. 3824 would insulate those who use pesticides from the Endangered Species Act's prohibitions against killing endangered and threatened species. As long as corporations comply with federal requirements to register as pesticide users, they will have no obligation to meet the requirements in the Endangered Species Act. The economic and environmental implications of this provision are staggering.

But where the budget really leaks is from the gaping hole created by a new, potentially open-ended entitlement program for property developers and speculators. Section 14 would establish the dangerous precedent that private individuals must be paid to comply with an environmental law. If this language were applied to local zoning, no Mayor or city council could govern a community without fear that their decisions might drive the community into financial ruin.

This section pays citizens to comply with the law. What is next: paying citizens to wear seatbelts, to comply with speed limits, to pay their taxes?

This bill also contains provisions that would severely weaken the consultation process, the very heart of the ESA. Under current law, the Fish and Wildlife Service analyzes a proposed action to gauge if it is likely to place the continued existence of a species in jeopardy. The process is grounded in science and must meet reasonable criteria.

This bill, quite to the contrary of current practice, wipes away any standards for that process. Wipes away review by wildlife experts – gone!

Proponents claim this change is justified because of the Service's heavy workload. Instead of fixing the problem by giving Fish and Wildlife more resources, this bill simply changes the rules and undermines species recovery.

Finally, Mr. Speaker, I oppose another provision that would further weaken the Section 7 consultation requirement when applied to State Cooperative Agreements. Under Section 10 of H.R. 3824, no additional consultations would be required once the Secretary enters into a cooperative agreement with a state. It is questionable whether consultation would ever occur, even in those situations causing jeopardy to a listed species.

These provisions, taken together, raise a whole host of questions and concerns. What is clear is that this bill will not improve species' ability to recover. Quite likely, it will result in more extinctions - - the loss of more of the creatures God placed in our care. Frankly, we cannot be good stewards of His creation and pass this bill.

For these reasons, I strongly oppose H.R. 3824. However, Mr. Speaker, I have worked well with Chairman Pombo on his bill. I would prefer that we keep talking to try and resolve our differences, but that is not the situation we are in today. I urge my colleagues to oppose H.R. 3824.