



## **Federal Dollars Used to Bankroll Environmental Lawsuits (the abuse of the Equal Access to Justice Act)**

It is a hallmark of our Constitutional Republic that we go out of our way to ensure that every day citizens are not trampled by a huge, faceless government. Sometimes we fail in that endeavor, but often we succeed. Americans have been afforded, by law, the ability to address legitimate grievances with the federal government. In fact, we go so far as to reimburse citizens for their legal expenses should they sue the federal government and prevail. Congress recognized that citizens should not have to risk their financial future to seek judicial redress from unreasonable government actions. This is why Congress enacted the Equal Access to Justice Act (EAJA).

The EAJA was established by Congress to ensure that individuals, small businesses or public interest groups with limited financial resources could seek judicial redress from unreasonable government actions. Through a permanent appropriation, and without Congressional oversight, EAJA allows prevailing plaintiffs to recover attorney fees and other costs from the federal government itself. The term “prevailing” even includes matters settled out of court. Federal agencies sometimes settle lawsuits out of court to avoid the time and additional expense of going forward. Since the taxpayers are footing the bill for both sides, who cares?

According to research by a Wyoming-based law firm, over the last 15 years a small number of environmental organizations have filed at least 1596 lawsuits against the federal government. Based on the information we’ve seen, it appears that many

environmental groups have created a virtual litigation industry using this government-funded program to bankroll their lawsuits against the federal government.

Under the guise of “public interest,” some environmental organizations are abusing the Congressional intent of EAJA. Over the years, these groups have been able to force the federal government to pay out billions of dollars for attorney fees and costs. Lawsuits filed by these groups target the livelihoods of hardworking Americans who are forced to pay for both sides of the ensuing legal dispute. Costly as it is, a rancher must intervene on the side of federal agencies to defend his or her way of life against the attack of the initial suit. That same rancher (and every other unsuspecting taxpayer) is then forced to support the environmentalist agenda and the litigation industry with their tax dollars.

It appears increasingly likely that this act, intended to give all Americans the ability to seek redress from their government, has been co-opted as a vehicle for some environmental organizations and their teams of lawyers to target natural resource agencies, public lands and public land users. Most importantly, the families and small businesses who represent the heritage and traditions of the true pioneer spirit are clearly in the crosshairs.

Without improved oversight, the blank checkbook will continue to provide billions of hard-earned tax dollars to support environmental lawyers, and advance the narrow, public lands agenda of no use. The abuse of this system is cause for great concern. This week, a bicameral group of Members of Congress have called on Attorney General Eric H. Holder and the U.S. Department of Justice to conduct a thorough review of this matter and provide suggestions to address any concerns that are identified.

The high-jacking of the equal justice statute by some groups and the environmental litigation industry that supports their “stop everything” agenda is a clear abuse of the program. We aim to improve this program and take necessary steps to change a clearly broken system.

*Note: Written by U.S. Reps. Rob Bishop, R-Utah, and Cynthia Lummis, R-Wyo.. Bishop and Lummis are chairman and vice chairman of the Congressional Western Caucus. It appeared in the Billings Gazette on November 7, 2009.*