

develop regulations establishing procedures for an expedited application or waiver of the act for agency actions that would be undertaken to address threats to human health or safety.

Mr. POMBO. The gentleman is correct.

Mr. HERGER. I thank the chairman.

As you know, Mr. Chairman, a terrible situation occurred in my district in Northern California several years ago where a levee that protects one of the communities I represent had deteriorated to such a point that the Corps of Engineers predicted that this degraded levee, without repair, presented a threat to human life. Regrettably, repairs to that levee were unable to proceed in a timely manner due to the lengthy consultation process, even though this very serious warning had been issued by the corps. I am sure the chairman has heard of other similar examples where the application of the Endangered Species Act has complicated or delayed urgent and targeted levee repairs from occurring when they are needed to protect people from flooding.

Mr. POMBO. Mr. Chairman, I am certainly well aware of the situation that the gentleman is speaking to. I was a Member of Congress at the time that that levee broke and tried at that point to help the gentleman to take care of that problem before it broke.

Mr. HERGER. Mr. Chairman, it is my understanding that the Secretary currently has in place emergency regulations that allow for expedited consultation in the event of an immediate threat to public safety, as, for example, when the floodwaters are rising and are feet or perhaps even inches away from breaking or breaching a levee.

Is the chairman's understanding that the intent of the legislation is to require the development of additional regulations that would allow the Secretary to expedite the application of the act for agency actions necessary to address threats to human health or safety?

Mr. POMBO. The gentleman is correct.

Mr. HERGER. Mr. Chairman, I thank the gentleman for that clarification.

Again, Mr. Chairman, I want to commend the gentleman for his leadership and years of work he has invested in making the Endangered Species Act a more responsive and effective law.

□ 1315

Mr. POMBO. Mr. Chairman, I ask unanimous consent to allow the gentleman from California (Mr. CARDOZA) to have 20 minutes of my time and to control that time.

The CHAIRMAN. The gentleman is advised that the Committee of the Whole is not able to entertain such a request.

Mr. RAHALL. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, in response to the last colloquy that just took place between the two gentlemen from California in regard to emergency powers that would be granted the President to waive provisions of the Endangered Species Act,

I just wanted to respond that the Endangered Species Act did not get in the way in any manner whatsoever of recovery efforts in response to Hurricanes Katrina and Rita. Whatever provisions that were needed to be waived were waived under current law, without any additional authority being needed by the President.

So I just wanted to make that clear for the record that ESA did not hamper any recovery efforts for any of the most recent hurricanes.

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Arizona (Mr. GRIJALVA), a distinguished member of our committee.

Mr. GRIJALVA. Mr. Chairman, today I rise in opposition to H.R. 3824.

In the 1960s, Rachel Carson's book "Silent Spring" documented the harmful effects of DDT and other pesticides on songbirds. This prompted a ban on DDT and the passage of the original Endangered Species Act. The ban on DDT, which the EPA said posed unacceptable risks to the environment and human health, saved the bald eagle and countless other species from going extinct.

Today we are considering a bill that would usher in another silent spring by eliminating the oversight for the registration of pesticides which harm wildlife and people.

H.R. 3824 contains a provision allowing EPA to consult with itself in determining the potential impacts of pesticide registration on endangered wildlife and fish, instead of consulting with the Fish and Wildlife Service or the National Marine Fisheries Service, which are the expert agencies whose mission is either in whole or in part to conserve species.

H.R. 3824 would take away the ability to stop pesticide use even when necessary to prevent extinction. Without existing checks and balances on pesticide use, the effect on wildlife could be devastating. Humans could be hurt too, because toxic pesticides are applied by farm workers that make their way into our Nation's streams, rivers, and food supply.

Pesticides poison 10,000 to 20,000 agricultural workers each year and are estimated to kill more than 67 million birds annually. But the EPA currently only requires balancing the profits from using a pesticide against the dollar value of harm caused by that pesticide. The Endangered Species Act, on the other hand, recognizes what almost all Americans believe, that no dollar amount can be placed on the extension of our Nation's treasured wildlife or on the human health of people who work in those fields.

The substitute to H.R. 3824 would leave existing law unchanged. It would leave in place current safeguards by requiring an analysis based on the health of wildlife, not the company's bottom line.

For this reason and many others, I urge my colleagues to join me in opposing this controversial bill and voting "yes" on the Miller substitute.

Mr. POMBO. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. GOODLATTE) having assumed the chair, Mr. SWEENEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3824) to amend and reauthorize the Endangered Species Act of 1973 to provide greater results conserving and recovering listed species, and for other purposes, had come to no resolution thereon.

#### CONTROLLING TIME OF GENERAL DEBATE DURING FURTHER CONSIDERATION OF H.R. 3824, THREATENED AND ENDANGERED SPECIES RECOVERY ACT OF 2005

Mr. POMBO. Mr. Speaker, I ask unanimous consent that during consideration of H.R. 3824 pursuant to H. Res. 470 that the gentleman from California (Mr. CARDOZA) may control 20 minutes of my time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

#### THREATENED AND ENDANGERED SPECIES RECOVERY ACT OF 2005

The SPEAKER pro tempore. Pursuant to House Resolution 470 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3824.

□ 1320

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3824) to amend and reauthorize the Endangered Species Act of 1973 to provide greater results conserving and recovering listed species, and for other purposes, with Mr. SWEENEY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the gentleman from California (Mr. POMBO) had 36½ minutes remaining and the gentleman from West Virginia (Mr. RAHALL) had 36 minutes remaining.

Pursuant to the order of the House of today, the gentleman from California (Mr. POMBO) has 16½ minutes remaining and the gentleman from California (Mr. CARDOZA) has 20 minutes remaining.

The Chair recognizes the gentleman from California (Mr. CARDOZA).

Mr. CARDOZA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, when the Endangered Species Act was adopted by Congress in 1973, it was heralded as landmark use of environmental legislation for the protection and conservation of threatened and endangered species. At that time, it was clearly understood that the ultimate goal of the act was to focus Federal resources on listed species so that, in time, they could be returned to a healthy state and be removed from the list.

I fully support the goal of species protection and conservation and believe that recovery and ultimately delisting of species should be the U.S. Fish and Wildlife Service's top priority under ESA. I am in full support of the Threatened and Endangered Species Recovery Act that we are hearing today because I think it is an innovative and creative approach to ending the long-running conflict between protecting species and enforcing conservation actions on private land.

There seems to be no question that ESA is due for an update since the substitute offered by many of my colleagues eliminates critical habitat in much the same manner as H.R. 3824. For good reason, too. Currently, the system of critical habitat designations is so dysfunctional that it seems to defy logic.

For example, in 2002, the service proposed to designate 1.7 million acres as critical habitat in California and Oregon for vernal pool species. Almost one-third of the entire acreage of Merced County, where I live, would have been designated as critical habitat.

In 2003, the service proposed over 4.1 million acres in California as critical habitat for the red-legged frog. One must wonder, if it can be found on 4 million acres, then is it truly endangered; or, on the flip side, are all 4 million acres truly critical habitat?

The Threatened and Endangered Species Recovery Act will fix the problems associated with critical habitat by replacing it with a recovery plan which will shift the focus from litigation to biology and recovery; provide for greater cooperation between the service and landowners and States; establish new incentives for voluntary cooperation efforts.

Coming up with a thoughtful way to enable recovery of endangered species without costly litigation has been a top priority for me since being elected to the Congress, and I am pleased that this bill does just that. My original bill, H.R. 2933, from the 108th Congress, tied the development of a recovery plan to the designation of critical habitat. The Threatened and Endangered Species Recovery Act takes that idea one step further and elevates the recovery plan system to the primary mechanism to protect species.

I also feel compelled, however, to mention a few things that this bill does not do. This bill does not, and I repeat, does not weaken current law; it does not create a sweeping new entitlement program for landowners; it does not allow for pesticides to be used at random to harm farm workers and at-risk species; and it most definitely would not in any case allow for national treasures like the bald eagle and the grizzly bear to become extinct. That has been reported by a number of my colleagues, and it is simply not true.

In fact, I think many of my colleagues would be interested to know that my office has been inundated by

representatives from so-called industry lobbyists requesting that certain provisions that were once included in this bill be put back in.

This bill is in no way a home run for anyone. In my opinion, it is a true balance between the sides, no side getting everything they want; and, when you achieve that, you usually have the best policy.

I think it is unfortunate that the media and some members of the environmental community have chosen to vilify this bipartisan legislation over the past few weeks and provide nothing but a knee-jerk negative analysis because they have already prejudged Chairman POMBO's bill as being the enemy.

Now we are here battling it out on the floor against one another, and another opportunity could be lost for us to move the ball forward together. I am proud of this bill, and I am proud of the work that Chairman POMBO and his staff have done to create a document that is truly a compromise, and it is a real shame we could not agree on these last few things.

Whether some people want to admit it or not, the ESA is not working to the best of its ability to protect the species, and it is our job as Members of Congress to do something about it. We can do better, and better is voting in favor of this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. RAHALL. Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Ms. WATSON).

Ms. WATSON. Mr. Chairman, we must protect what we can never get back. We are not only protecting wildlife, but we are defending our citizens as well.

The stringent regulations in the Endangered Species Act have benefited many species in our great country. Our national symbol, the bald eagle, is one of the most profound stories of recovery in progress. The American alligator, the Peregrine falcon, and the California condor are but a few examples of species that have benefited by the provisions in the bill. According to the United States Fish and Wildlife Service, nearly half of the species that had been on the list more than 7 years were stable or improving, and those are the facts.

Mr. Chairman, H.R. 3824 is full of giveaways to large development companies and other special interests. The Pombo legislation includes provisions that require the government to use taxpayer dollars to pay developers and other special interests not to violate the Endangered Species Act, instead of creating commonsense incentive programs that would foster greater involvement in conservation efforts.

Congress should choose to send a national message regarding the mindful stewardship of our country. If not, further abuses will occur as evidenced by Governor Schwarzenegger in my own home State of California. Tuesday, the

Governor fired all six members of the State Reclamation Board, an agency that oversees flood control. The board had recently become aggressive about slowing development on the flood plains.

Is the Governor's protection of developers and big landowners worth the devastation that oversight can avoid? Congress would be wise to take notice, in light of the no-bid contracts, pleas to exempt all environmental regulations in the gulf States after Katrina, and the same old companies slurping up Federal funds in egregious excess.

Mr. Chairman, the gentleman from California's bill is not the legislation we need. It would also allow the unlimited use of dangerous pesticides at the expense of the people, plants, and wildlife. This bill would repeal all Endangered Species Act provisions that regulate the use of pesticides like DDT, which nearly resulted in the extinction of the American bald eagle in the mid-20th century and decimated the California brown pelican population in my own State.

□ 1330

We must protect what we can never get back.

Mr. Chairman, I strongly urge my colleagues to defeat this bill.

Mr. POMBO. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. GOODLATTE), the chairman of the Committee on Agriculture.

Mr. GOODLATTE. Mr. Chairman, I rise in support of H.R. 3824, the Threatened and Endangered Species Recovery Act. I congratulate the gentleman from California (Mr. POMBO) and the gentleman from California (Mr. CARDOZA) for their outstanding work on this legislation.

This legislation will reform the 1973 Endangered Species Act so that real species recovery can be achieved while minimizing conflict with landowners, businesses, public land managers, and communities, and particularly the farmers and ranchers of America that my committee represents.

Since the gentleman from California (Mr. POMBO) introduced this bill, we have heard groups on both sides of the issue recite statistics with the intent of proving or disproving the effectiveness of the law. Well, I do not believe I can change many minds simply by pointing out that over 99 percent of the species placed on the list are still on it. I would like to make a comparison that may put this dismal success rate in perspective.

If I, for instance, ran a hospital where only one half of 1 percent of the critical patients who checked in recovered, I could hardly claim to be doing a good job. What we need is an endangered species law that not only protects the species, but allows them to recover, to expand and to get off of the endangered species list as a thriving species. This is, however, the record the Endangered Species Act has today compiled, one where only one half of 1 percent of the species have recovered.

Its proponent, nonetheless, continue to claim that that is a success. Along with its glaring shortcoming, the law contains numerous unintended consequences that have proven to be extremely harmful to landowners and local communities. In fact, landowners have come to fear the Endangered Species Act as it has evolved into a giant regulatory menace.

Under the current law, the U.S. Fish and Wildlife Service has the power to halt lawful landowner activities if an endangered species is identified on their property and it is determined their actions would take that species. The landowner and his right to use his land are then simply left to the mercy of the courts.

Private property rights are fundamental rights embodied in the Constitution, and Congress periodically needs to take steps to ensure that government is protecting them, not trampling on them.

In my own committee, the Committee on Agriculture, we have recently examined another example of the infringement of property rights through the use of eminent domain. I commend the gentleman from California (Mr. POMBO) for working with us to address that problem as well.

TESRA achieves a balance between environmental concerns and property rights protection through its compensation and cooperative conservation provisions. Through these provisions, this legislation will fairly compensate landowners when they must forego use of their property and provide varied and unique ways to work with landowners.

The bill also makes other important changes, such as doing away with the Act's emphasis on designating critical habitat by placing emphasis instead on functional recovery plans. These reforms will not only be more effective in achieving species recovery, but do so in a flexible, non-adversarial manner. I believe the protection of endangered species is exceedingly important, however, a law that forces Federal wildlife officials to simply catalog declining species while alienating landowners and discouraging good management practices is a bad thing. Support this legislation.

Failing to improve the lot of species in more than 99 cases out of 100 isn't working. TESRA is a commonsense step towards improving and modernizing the 35-year-old law, and I urge my colleagues to support this important legislation.

Mr. CARDOZA. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. COSTA).

Mr. COSTA. Mr. Chairman, I rise in support of H.R. 3824. This legislation is a reasonable, balanced response that I think will address many of the unintended difficulties and consequences that have arisen since the passage of the original Act.

Over 30 years have passed since that time. That has given us an awful good opportunity to see what sort of insight

and experience in terms of what has worked in preserving and protecting endangered species and habitat and what just as importantly has not worked.

California faces numerous challenges in complying with the Endangered Species Act, like many parts of our country. In California, we have 293 threatened and endangered species in the State, the second largest number in the Nation. We also have 11 million acres of designated critical habitat of which 30 percent of it is privately owned. In Kern County, part of which lies in my district, we have more listed species than any other county in the State of California.

To relay an anecdotal story of which there have been many here today, in 1995, we had a Chinese immigrant farmer who, believe it or not, was jailed and prosecuted due to an accidental taking of a species on his land that he had farmed for years. As a matter of fact, his tractor had been confiscated as corroborating evidence.

As a result of that, I and others in the California legislature led a successful effort to change the law to ensure that that would not happen again.

During the committee markup last week, I successfully passed two amendments that clarify local governments' role in participating in the development of habitat conservation planning. As we know, many of the habitat conservation plans have had difficulty in their adoption. The on-the-ground information from our local governments and water agencies and land use agencies is beneficial in the crucial input in the listing process and for trying to provide recovery efforts that are successful.

Mr. Chairman, the Endangered Species Act needs improvement, and I think this bill is a step in that direction. It obviously is a work in progress, but we should understand that the dilemma that we face in America today is that while we all want to protect native plants and species, the dilemma is that our population growth has threatened the habitats for many of those plants and animals, and therein lies the dilemma.

We must continue to work on efforts that I think are included in this legislation, realizing that we are going to have to revisit them in future years.

I applaud the bipartisan efforts of the gentleman from California (Mr. POMBO) and the ranking member, the gentleman from West Virginia (Mr. RAHALL) and their staff for working with all the members of the committee, and the gentleman from California (Mr. CARDOZA) for addressing the problems of the original bill.

I urge my colleagues to vote for its passage.

Mr. Chairman, I would like to enter into a colloquy with the chairman of the Committee on Resources.

My amendment that I referenced a moment ago that was accepted by the committee is meant to assure that

States and units of local government have fair input in the listing process for threatened and endangered species. Local governments, we know, often have the best on-the-ground information on the status of communities of plants and animals that are in the area.

This bill would formally recognize the local governments' rights to comment on the listing process and the acquisition of the best available scientific data. In many areas of California, we have water districts that are an extremely active part of the local governmental units that are involved in the species recovery process. The contributions that they make are many.

In order to understand the status and the challenges of the various species that are listed, is it the chairman's understanding that the reference to units of local government in section 8 of the bill would include water districts?

Mr. POMBO. Mr. Chairman, will the gentleman yield?

Mr. COSTA. I yield to the gentleman from California.

Mr. POMBO. Yes, that is our intention.

Mr. COSTA. I thank the gentleman very much for that clarification.

Mr. RAHALL. Mr. Chairman, I yield for the purpose of making a unanimous consent request to the gentleman from New Mexico (Mr. UDALL).

(Mr. UDALL asked and was given permission to revise and extend his remarks.)

Mr. UDALL of New Mexico. Mr. Chairman, I urge my colleagues to support the Miller-Boehlert substitute.

Mr. Chairman, I rise today in support of the substitute amendment in opposition to H.R. 3824.

H.R. 3824 is being promoted as a piece of legislation that is good for business. As a senior member of both the Small Business committee and the Resources committee, I think I have an important perspective on this issue.

I would like to draw a parallel between the Endangered Species Act and landmark legislation that has been passed by Congress to protect the health and safety of workers. One could easily and logically argue, if they were so inclined, that child labor laws and occupational safety and health laws were bad for business. But we don't because we intuitively understand that supporting the very foundation of business, the people who do the work, is a long-term economic benefit for society, even though it may cost a few dollars up front.

That goes to the basic fact that practically every adult in America has worked hard at a job for a business or a corporation at some point in his or her life. All of us can easily relate to the problems caused by unfair labor practices and unsafe working conditions. However, very few of us are scientists. We are not a scientifically literate society.

I am not here to say whether that is good or bad but just to offer one explanation why we find it so difficult to grasp that the health of our environment and the continuity of all the pieces in our environment is as important to the health of our society and the strength of our economy as sound labor practices. Legislation that hurts the health of the worker is not

good for business. Laws, like the one being proposed today, that undermine the very foundation of our society's well-being and economic infrastructure, are not good for business.

When we undermine the basic tenets and goals of the Endangered Species Act, we do so at our own peril. Most of us in the House were alive in the early 1960s when Rachel Carson published her book, *Silent Spring*. The silence of which she spoke caused by the extermination of songbirds, dying because the shells that protected their offspring shattered long before the young were ready to hatch. The eggs shattered and the next generation died because DDT weakened the structure of the eggs. The spring, once filled with the sound of songbirds, was growing ever more silent as DDT began to pervade every corner of our environment.

DDT nearly exterminated our Nation's symbol of freedom, the bald eagle, because it shattered their shells. DDT nearly exterminated the endless flocks of brown pelicans flying low over the ocean's horizon, because it shattered the shells of their young. In my lifetime, I have witnessed the near extinction of these birds. And, thank God, I have witnessed their return because we banned that chemical.

Even though the birds have returned, did we ban DDT too late, because we all know that every one of us harbors residues of DDT in our bodies, that DDT is found in our mother's milk? Or, were the eagle and the pelican sentinels, helping us to right our wrongs just in time, before they disappeared from this planet and our own bodies weakened along with them.

The Environmental Protection Agency banned DDT a year before the ESA was passed and here we are, 35 years later, about ready to pass a so-called "ESA reform bill" that would suspend all Endangered Species Act provisions related to pesticides.

The Endangered Species Act is really about a single species—us, human beings. I am not going to be dramatic and suggest that our species faces extinction. At six and a half billion and growing, I think the human species is going to be around for a good long time. But the existence of today's young people is not the existence I remember from my youth.

Bottled water, mercury poisoning the womb, rates of asthma attacks skyrocketing, beaches closed because E.coli pollutes the water and sickens our children.

The Endangered Species Act is not about saving the tiny silvery minnow that lives in the Rio Grande and it is not about saving the spotted owl that exists in mature forests. It is about alerting us to the fact that our rivers no longer sustain fish and our forest no longer sustains birds. The Endangered Species Act sounds the five-minute buzzer for humanity and says "Watch out!" Our fellow creatures are sickening. The animals that share our water, our air, our soils are dying. Something is wrong and we better do something about it before it begins to weaken and sicken us and we have to scramble to pick up the pieces.

Let me close where I began—whether or not a drastic weakening of the Endangered Species Act is good for business. The simple cost/benefit analysis often applied to endangered species protection only reflects what can easily be given a monetary value. This highly selective economic analysis only counts

what can be most easily quantified—the cost of timber not cut, the cost of water not sold, the cost of crops not sprayed with pesticide.

These economic analyses do not account for the cost if environmental protections are not put in place—an aquifer that dries up, a hillside that erodes into a river, people stricken with cancer from unsafe pesticides. It is easy to hold up the first balance sheet and say, "Business will suffer" in the same way one could say that by prohibiting the labor of children, "Business will suffer".

But the cumulative costs of a thousand cuts into the environment that sustains us as humans will be borne by everyone in society, consumers and businesses alike. Without environmental laws, our economy polluted our rivers, darkened our air, paved our wetlands, and drained our rivers. The Endangered Species Act does not take property from private entities; it protects the property, the health and the wealth of all Americans.

Mr. RAHALL. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Michigan (Mr. DINGELL), the dean of the House as well as the father of the Endangered Species Act, the ranking member on the House Committee on Energy and Commerce.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Chairman, I want to thank my dear friend, the gentleman from West Virginia (Mr. RAHALL), not only for his friendship, but for all the good things he has done on the matter of endangered species and other matters on nature and conservation of natural resources.

I want to pay tribute to my friend, the chairman of the committee. He has behaved in all manners in this connection with this, as he always does, as a complete gentleman. I greatly regret that we were not able to conclude our negotiations in a way which enabled us to together support this legislation. But he has made an honest effort and I want him to know of my appreciation and respect.

Having said that, endangered species is a very important piece of legislation that has worked well. It has served the Nation splendidly well. Large numbers of species which would have been extinct are saved by the fact that this has been in place. And the government now has the tools and guidelines for its behavior.

This is not new legislation. It passed in 1973. The gentleman from Alaska (Mr. YOUNG), the gentleman from Michigan (Mr. CONYERS), the gentleman from Wisconsin (Mr. OBEY), the gentleman from Ohio (Mr. REGULA) and the gentleman from New York (Mr. RANGEL) all supported it. It passed by a heavy bipartisan vote in the House. It passed 92 to nothing in the Senate.

I would note that there are few real differences between the substitute which will be offered shortly and the legislation as it is before us. They are, however, noteworthy. I would note that the success of the Act I do not believe would be furthered by the adoption of the manager's amendment, but it

would be by the substitute to be offered.

I would note that there is reason to constantly review the legislative pronouncements of the Congress and to see how it is working and what needs to be changed to make it work better and more fairly. I would note that it is working well and fairly. 56 percent of the top prescription drugs in the world contain natural compounds from plants found in the wild, many of which come from endangered plants. We have saved large numbers of animals who might otherwise have been extinct. I would note that there are also economic benefits. In a sense, we do good by doing well.

I would note that wildlife has created recreation for more than \$108 billion in revenue and more than a million jobs in both the public and private sector at the local and national level.

There are problems with this. Science is the core of ESA and should remain so. H.R. 3824 regrettably changes it so that scientific data do not work in the same fashion they do and it creates new layers of bureaucracy. It also creates impacts which are supposedly related to national security, which may be important in terms of the recovery plan but not in terms of whether the animal should be listed or the species should be listed.

Economics are treated in the same way. They become a part of the decisionmaking rather than in the creation of the recovery plan. It is unfortunate that the legislation allows threatened species to dwindle until they become endangered, making the problem of recovery still more difficult.

We can and we should address the real needs of small farmers, landowners, ranchers and others; and we can do this, I believe, without allowing unlimited claims upon the Treasury. This would, I think, entail an intelligent review of this matter, something which the gentleman from California (Mr. POMBO) and I tried to do.

I would note that the President has expressed concerns in his statement of the administrative policy on September 29 and he says, "Requirements related to species recovery agreements, new statutory deadlines, new conservation and programs for private property owners provide little discretion to Federal agencies and could result in a significant budgetary impact."

So if you want fiscally and financially responsible legislation, legislation which, in fact, protects the species, which is fair to all, which makes progress and which is close to the area of the legislation but which has broad citizen support, conservation support, and does move the process forward, I would urge my colleagues to support the substitute which will be offered by my colleagues, the gentleman from California (Mr. GEORGE MILLER), and the gentleman from New York (Mr. BOEHLERT). This is the way to go.

We can continue our efforts to try in good faith as has been done by both the

distinguished gentleman from West Virginia (Mr. RAHALL) and the distinguished gentleman from California (Mr. POMBO) to achieve good legislation which will again address the concerns of all while at the same time protecting and conserving species which we have no right to remove from this world.

□ 1345

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN. Mr. Chairman, I rise in strong support of the Threatened and Endangered Species Recovery Act, H.R. 3824.

I want to first of all commend the gentleman from California (Chairman POMBO) and the gentleman from California (Mr. CARDOZA) for what is very commonsense, bipartisan legislation; and I want to thank the chairman and his staff for all the long hours and the hard work they have put into this bill.

The latest figures I have show that my home State of Tennessee has one of the highest numbers of listings on the endangered species list. As my colleagues can imagine, this is a very big issue in my State.

I think everyone has read and heard horror stories about ridiculous rulings that have come out over the years, very unfair rulings, under the Endangered Species Act. The burden of compliance under present law is, by far, the hardest for the smallest of our landowners.

It is a simple fact that the existing law hits the hardest on the small- and medium-size farmers and ranchers and landowners, and these are the people least able to fight it.

The wealthiest people and the biggest corporations always seem to be able to get their way. They have enough money, and compliance with the law is either a simple nuisance or just a small cost of doing business. I think, and the fact is, that the way the present law is, it drives out a lot of the competition for the big guys by getting rid of some of the little guys.

I think that anyone who approaches this legislation with a truly open mind would call this a very moderate bill. In fact, in almost any other country in the world, H.R. 3824 would be held as great environmental legislation.

The United States has made greater progress in regard to environmental protection than any other country in the world in the last 30 years. Yet there are some extremist groups that simply cannot seem to admit we have made this progress.

Right now, these groups are telling their members how terrible this legislation is. However, if we look at their mailings, they always tell their members how bad things are, and I think it is probably more related to fund-raising and money than it is to actual concern about endangered species.

If people want to both protect endangered species and not force small farm-

ers or small landowners off their land and force them to sell to big developers or big government, then this is balanced legislation that will accomplish these goals.

Mr. CARDOZA. Mr. Chairman, I yield 6 minutes to the gentleman from California (Mr. BACA).

(Mr. BACA asked and was given permission to revise and extend his remarks.)

Mr. BACA. Mr. Chairman, I rise in support of H.R. 3824, the Threatened and Endangered Species Recovery Act. I commend the gentleman from California (Chairman POMBO) and the gentleman from California (Mr. CARDOZA) for this legislation.

This legislation modernizes the Endangered Species Act, or ESA, to allow for more scientific review, better conservation plans, and to focus on a recovery process that is based on collaboration and not conflict.

After more than 3 decades, the ESA has failed. This legislation is a bipartisan effort to fix the flawed law.

Less than 1 percent of endangered species have recovered, less than 1 percent. The ESA has only helped 10 of 1,300 species listed under the law. Thirty-nine percent of the species are unknown. Twenty-one percent are declining, and they are declining, and 3 percent are extinct. This law has a 99 percent failure rate.

We need to update. We need to update and modernize the ESA to strengthen the species recovery by turning conflict into cooperation and allowing the use of sound science.

In the Inland Empire, the ESA has prevented or increased costs for freeway interchanges, economic development, and things as simple as trash removal. There are certain areas that are blighted in portions of our communities. It is like walking into a mine. You have got to watch every step that you take because you are afraid you are going to step on an endangered species.

In my district, we have two infamous endangered species. I want to point to one, the Delhi sand flower-loving fly, and of course, the other one is the kangaroo rat.

Look at this fly. If anyone were to see this fly, we would swat it. It is our first, immediate reaction, and we have always heard the buzz at night when we hear a fly. We do not stop to look at it to see if it is an endangered species. Immediately we react; we swat it.

Now, when we look at this fly, and it was buzzing around, I would swat it. What would happen if a cow swatted this fly? Would we fine the cow or the owner? It seems pretty ridiculous, I say.

ESA has many ridiculous examples. As we can see in these posters next to me, the fly costs San Bernardino County Medical Center \$3 million to move the hospital about 200 feet when the fly was found in the property. That is about \$600,000 per fly. Can my colleagues imagine what it would do to

our communities, \$600,000 to move a hospital? They reserved a certain area that is full with blight that is overlooking the hospital.

Also in my district, ambulances driving to this emergency room at Arrowhead Medical Center need to slow down so that the endangered flies will not hit their windshield. Can my colleagues imagine someone who needs emergency services cannot get to the hospital, has to slow down because they are afraid this fly might run into the windshield? That is ridiculous. It is about a life that we need to save, not a fly.

It has even been suggested that traffic be slowed down on Interstate 10. Interstate 10 goes into Palm Springs. It is a route that moves traffic back and forth. It is ridiculous. They are saying, all right, this fly only comes out between July and September. So people are suggesting when we travel on that freeway that you should reduce your speed limit from 65 to 25 miles an hour because we might endanger this fly and hit this fly. Can my colleagues imagine the traffic congestion in the area, the impact it would have in that area, on the flow of goods and others that would not be able to be moved? That is ridiculous.

The Inland Empire is indeed species rich, but we have been hit hard by jobs lost by ESA. That is why we need to take into account the human cost.

For example, in the cities of Colton and Fontana, California, a handful of flies, yes, flies are responsible. The city of Fontana alone has spent \$10 million in legal fees associated with the ESA and has been forced to put aside \$50 million worth of land that has been intended for development. A scrapped commercial center with a supermarket would have generated \$5 million in revenue.

Can my colleagues imagine what this would have done to the area, better schools, more police officers, new fire stations, teen centers, paving the streets, fixing our potholes? Yet we have not been able to generate the kind of revenue that we need.

The ESA is related to the development that led the city to default on bonds. Will the Federal Government restore the city's credit rating? No. It has hindered us.

Imagine if endangered species suddenly thrive in the areas flooded by the hurricanes. Do we stop the hurricane construction?

This law affects more people than what we think. Think of the farmers not able to harvest their crops because an endangered species is found in the field.

Local cities have offered land for habitat, changed development plans and tried to partner in that process; but ESA, as written, will not permit that.

I support this legislation, and I think this is good legislation. I ask my colleagues also to support the passage of this.

Mr. RAHALL. Mr. Chairman, I yield myself such time as I may consume.



Mr. Chairman, there is probably not a Member of this body that cannot get up and tell some horror story with the current administration of the Endangered Species Act. We all agree there is need for reform and change.

The previous gentleman, while not speaking to the legislation whatsoever, should take note, and he has referred to the cost to a hospital in his district that had to pay some enormous costs, but it is important to realize anytime we allow species to go extinct we lose enormous potential to understand and improve our world and to create medicines that many times can save people's lives. Nowhere is that more evident than in the world of medicine.

I have my chief of staff who has returned from the hospital, thank the Lord to many medicines that have been produced from nearly extinct species. It has made him well and brought him to this floor, and I could go down the list. There are a number of important medicines, including possibly the next effective treatment of cancer, AIDS, or heart disease that can come from species that we are trying to protect and save on this world.

Mr. Chairman, I yield 3½ minutes to the distinguished gentleman from Washington (Mr. DICKS), ranking member on the Subcommittee on Interior, Environment, and Related Agencies of the Committee on Appropriations and a member of my class.

Mr. DICKS. Mr. Chairman, I thank the gentleman for yielding me time.

Everybody has been talking gloom and doom about the Endangered Species Act. Let me give my colleagues a few success numbers. This comes from the National Wildlife Federation.

According to the National Research Council, the Endangered Species Act has saved hundreds of species from extinction. A study published in the "Annual Review of Ecological Semantics" calculated that 172 species would potentially have gone extinct during the period from 1973 to 1998 if Endangered Species Act protection had not been implemented.

According to the Fish and Wildlife Service, 99 percent of the species ever listed under the Endangered Species Act remain on the planet today. That is not a failure. That is an enormous success.

According to the U.S. Fish and Wildlife Service, of the listed species whose condition is known, 68 percent are stable or improving, and 32 percent are declining. The longer a species enjoys the Endangered Species Act protection, the more likely its condition will stabilize or improve.

Now, I just want to say something. Everybody has been saying that H.R. 3824 has been this great effort in terms of collaboration, and I respect that. I respect the way that the chairman and the gentleman from West Virginia (Mr. RAHALL) have approached this thing.

I come from the State of Washington. No part of the country has been more affected by the Endangered Species Act

than the State of Washington with the spotted owl listings and the marbled murrelet listings; but I believe that this legislation, H.R. 3824, is a step backwards. It is not going to help protect these species that we want. It will hurt them.

I think that the ESA should be reformed in a responsible manner. In fact, the substitute amendment that I have cosponsored with the gentleman from California (Mr. GEORGE MILLER), the gentleman from New York (Mr. BOEHLERT), and others that will be debated later today embodies those kinds of practical reforms which still provide us the kind of potent tools necessary to prevent extinction of species and to work towards their recovery.

There are some aspects of this bill that I agree with to a point. Over time, many supporters of the ESA have come to question the way in which habitat is designated as critical in order to help species recovery. While it is vitally important that habitat be set aside, these critical habitat designations have led to much controversy.

The substitute amendment also eliminates the critical habitat designation, but replaces it with the requirement that the Interior Secretary identify specific areas that are necessary for the conservation of species and then enforce these designations.

In addition, the substitute amendment will require that Federal land be considered first for designation as habitat necessary for a species' survival and recovery before private landowners are burdened.

Another provision of this bill is one offered by my friend from Oregon, but the idea that we are not any longer going to have EPA consult on pesticides is a tragic mistake. This is enough to defeat this bill in its own right. This is a terrible mistake. Sixty-seven million birds each year die because of pesticides; and if we let this pesticide provision be enacted, it will be the most damaging thing I can think of for birds and other wildlife.

□ 1400

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Chairman, the Endangered Species Act is broken and needs to be fixed. Those are not my words, those are the words of a city counselor from Santa Barbara, California. In a hearing we had on endangered species last year, she described California as being the greenest State, Santa Barbara as being the greenest of the cities in California, and she as being the greenest of the green. She said that the Endangered Species Act is blocking people from making additions onto their homes, it is keeping the beach closed, it is stopping development in their town, and they are tired of it. They either want it eliminated or fixed.

Elimination of the Act is too extreme. The gentleman from California

(Mr. POMBO), our chairman, has taken a very good stance in reforming it. In New Mexico, we have the silvery minnow. In order to keep the flow in the Rio Grand River at the level that the biologists said we had to have, we had to release storage of water that had been building up for 50 years in four different reservoirs. And storage for water like that in New Mexico is not easy to get. When we empty those, we cannot maintain the flow. So one of the most important provisions in this bill is that sound science must be used for any decision.

We also are affecting the outcome for our private property owners, and so I thank the gentleman for his hard work on this and I support the bill.

Mr. CARDOZA. Mr. Chairman, I yield 1½ minutes to the gentleman from the great State of Oklahoma (Mr. BOREN).

Mr. BOREN. Mr. Chairman, I rise today in support of this important very important reform legislation because it is an issue that is very important to me and many of my constituents in my district.

As we all know, the challenge we face in reforming the ESA is to create a balance between the important goal of conservation and preservation of our Nation's species and making sure property owners, businesses, workers and communities do not suffer unnecessarily for these efforts. Under the current structure of the Endangered Species Act, these two goals have unfortunately been at odds and have been a barrier to important economic development.

By reforming the current law, we have the opportunity to craft balanced legislation that brings all stakeholders together in common interest. I feel strongly that this legislation achieves that balance and, therefore, should be approved.

A community in my district seeking this balance is Durant, Oklahoma, which is in part of the "historic range" of the American burying beetle. The leaders of Durant have worked hard and have had success in bringing business to their area of far southeastern Oklahoma, but each year, the construction of new sites for these businesses is brought to a screeching halt, always looking for the burying beetle, but no presence of the beetle has been found for a number over years. This disruption costs the community time, money, and the potential for future job growth.

There must be a better way to balance the needs of the species and the needs of the communities. This bill provides important reform. It does not gut the law, but actually continues to provide important protections for endangered species which we all care about deeply. This reform should improve the recovery process and provide real success in saving our national treasures.

I commend the hard work of those who have brought us here today.

Mr. RAHALL. Mr. Chairman, it is my pleasure to yield 3 minutes to the distinguished gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in opposition to the Threatening Endangered Species From Recovering Act.

This legislation, as many of us know, will do nothing to improve our ability to help species recover. As a matter of fact, this legislation will repeal all Endangered Species Act provisions that protect threatened and endangered plants and wildlife from the harmful impact of pesticides.

Let us focus on this for a moment. Every schoolchild in America is aware that pesticides are threatening to birds. Our own national symbol, the bald eagle, is threatened with the provisions of this bill that would repeal the pesticides provisions that currently exist and which help protect endangered species. We would not spray pesticides on a bald eagle, would we? And if we would not do that, why would we vote for this bill? Pesticides have played a large part in the decline of many species, including the bald eagle.

The bald eagle is the symbol of our national unity. There is something about the Endangered Species Act which represents something even greater than talking about plants and wildlife. There is a recognition that plants and wildlife and human beings are all part of the same interconnected process; that we are interdependent; that we are all one. To act as though plants and wildlife and insects are just here for our use, for our commercialization, for our disposal actually rejects our own humanity. There are deeper questions here about who we are as human beings that are reflected in legislation like this.

I could talk for a while about how this bill is going to provide giveaways to developers at the expense of wildlife and endangered species. I could talk about how it is going to require the government to use taxpayer dollars to pay big developers to not violate the Endangered Species Act. I could talk about how this Threatening Endangered Species From Recovery Act would call for a tentative schedule for developing recovery plans for species that are currently protected. I could talk about all that, but I want to stress that what we are really doing here in voting for this bill is rejecting the whole idea of interdependence and interconnection; rejecting the idea of a bald eagle which stands for national unity and that we are all together.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Chairman, I thank the gentleman for yielding me this time, and I appreciate the chairman's efforts to reach across the aisle and produce a true bipartisan bill, and I thank the gentleman from California (Mr. CARDOZA) for working on this.

If any of my colleagues have served on the Committee on Resources, as I have, you know that this is a truly bipartisan bill. The gentleman from West Virginia mentioned that everybody can find an example of how the current ESA is out of whack, and he uses that as an excuse not to move forward with a bill that reforms it. I would say that that is precisely the reason we need to reform it, because everybody can find not just one but two or three or a dozen examples in their own State of how the current law is not leading to recovery, but it is, rather, tying people up and making individuals and organizations simply pay for a regulation rather than recovery.

The purpose of this bill is to lead to the recovery of species, and that is what this is all about. My own State of Arizona has had its own issues with the Endangered Species Act. Many times, those who manage water resources have been tied up with regulation that has required them to spend money on that rather than the recovery of species. This will make it far easier to do that.

This bill will also mean a deal between a landowner and a Federal agency is a deal. So for many reasons, I would support the bill.

Mr. CARDOZA. Mr. Chairman, I yield 1½ minutes to the gentleman from South Dakota (Ms. HERSETH).

Ms. HERSETH. Mr. Chairman, I thank the gentleman from California for yielding me this time, and I wish to engage the chairman of the Committee on Resources in a colloquy.

For many years, Mr. Chairman, the U.S. Army Corps of Engineers has engaged in river management practices that have harmed several species of native wildlife that live in and near the Missouri River and undermine the economic livelihood of many communities along the upper Missouri River basin. My State, and others in the upper reaches of the basin, have repeatedly endeavored to influence the decisions of the Corps as it makes critical river management decisions.

The interagency consultation provisions found in the current law are one of the few tools at our disposal. So I am concerned that the alternative procedures defined but not specified in section 12 of the Threatened and Endangered Species Act would create a way for the Corps to disregard the consultation requirement, and I want to make sure the alternative procedures provision is not designed as a way to eliminate consultation between Federal agencies.

Therefore, under the new bill, would the Corps be required to manage the Missouri River in a manner that meets current standards under the ESA?

Mr. POMBO. Mr. Chairman, will the gentleman yield?

Ms. HERSETH. I yield to the gentleman from California.

Mr. POMBO. Yes, they would.

Ms. HERSETH. Mr. Chairman, I thank the gentleman for recognizing

my concern and clarifying the intent of the bill. I am satisfied the bill will not weaken the interagency consultation requirement, and I appreciate your consideration.

Mr. RAHALL. Mr. Chairman, I yield 3 minutes to the gentleman from Washington (Mr. INSLEE), a very valued member of our Committee on Resources.

(Mr. INSLEE asked and was given permission to revise and extend his remarks.)

Mr. INSLEE. Mr. Chairman, I think it is appropriate to refer to the first Endangered Species Act in Genesis. "Bring out every kind of living creature that is with you, the birds, the animals, and all the creatures that move along the ground, so that they can multiply on the earth and be fruitful and increase in number upon it."

Are we acting in the spirit of Noah when we purport to vote, some may vote, for a bill that would prevent protecting the bald eagle from pesticides, when DDT almost removed it from the treasure-trove of American icons? Are we acting in the spirit of Genesis? I think Americans think we are not. When we act to remove any meaningful enforcement provisions to protect the habitat, are we acting in the spirit of Genesis? Americans think not.

What is a fish without a river? What is a bird without a tree to nest in? What is an Endangered Species Act without any enforcement mechanism to ensure their habitat is protected? It is nothing. This is not a modernization of the Act, this is a euthanization of the Act, and I will tell you why.

The underlying bill says that we are going to have these maps of habitat that will be developed, and that is a wonderful thing. And under the bill, as written, the maps will hang on the walls of these agencies in beautiful pink and blue, and the Cub Scouts and the Girl Scout Troops can come through and look at the beautiful maps. But it has one missing thing. If we pass this underlying bill, we would have removed any single legal enforcement mechanism that those maps had whatsoever. The bipartisan amendment will say that those maps have some degree of teeth.

This underlying bill is a chimera. It is a total falsehood to say it does the first thing for habitat because there is no enforcement mechanism for those maps.

I want to tell my colleagues of a woman who was in my office the other day. She wants habitat protection so she can see those salmon. And just to make sure no one thinks this is just some esoteric thing, her name is Gail and she lives in Miller Bay in Washington State, Kitsap County. She told me about the thrill of seeing the salmon going up the stream on Miller Bay, and they do that because we have an enforceable mechanism to protect habitat. She knows that if we pass this bill, we will remove the ability to protect the streams. We remove the enforcements mechanisms.

Mr. Chairman, that is why we need to do this substitute, which has a better way of identifying habitat in the recovery process so we do not have this frustration with the landowners, so we do not waste 3 years just bothering landowners and not recovering species, but we have a mechanism to get this job done.

I want to reiterate what the gentleman from Washington (Mr. DICKS) suggested. To suggest that an Act that saves 99 percent of the species from extinction is a failure is not a way to keep score. If you want to know how to do more, let us make sure that the executive branch enforces this law. Clinton listed 500. The first Bush listed 250. This administration has done zero without a court order.

Let us pass the substitute bill and reject this underlying bill. Honor creatures, honor the taxpayer, honor yourself.

Mr. POMBO. Mr. Chairman, I reserve the balance of my time.

Mr. CARDOZA. Mr. Chairman, I reserve the balance of my time.

Mr. RAHALL. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. FARR).

Mr. FARR. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise as a Member probably more affected by this law than anybody else in the United States Congress. I probably represent more critical habitat in the coastal counties of Monterey Bay than anybody. That is the Big Sur, Carmel, Pebble Beach, Santa Cruz region.

That critical habitat has made us a lot of money on what is watchable wildlife. Watchable wildlife is the largest business, fastest-growing business in the United States. Of all the sports in this country, watchable wildlife exceeds them all. This bill undermines the greatest economic asset we have, which is our natural things by creating a new issue on takings.

You argue the bill is broken because the administration has not been able to administer it.

□ 1415

Well, it is not the bill that is at fault; it is the United States Congress and the President of the United States that are at fault.

I am on the Committee on Appropriations, and in 2003 the Fish and Wildlife Service said it needed approximately \$153 million to address the critical backlog of listings of critical habitat; yet the President only asked for \$18 million. This is the way to kill an organization. You do not fund it, and say, look, the law does not work, you have a backlog.

So let us take the law. Every city councilmember, every city supervisor in the United States ought to wake up and look at this law because now they give full development rights under this law. If you do not like the way the law is, you have trees in your backyard that the government says, the commu-

nity says you ought to preserve, you do not have to worry about that now because you can say that is a taking.

Pebble Beach, cut all of your cypress trees and pine trees, which are the Monterey cypress and the Monterey pines, because now instead of beautiful scenery, you can build hotels all over that land. And if they do not allow you to do that because of the trees, the government will pay you.

Mr. Speaker, guess what, the government has no money. It cannot even pay the bureaucrats that are responsible for carrying out the law. This bill is a gun to the head. This bill says if you do not grant that development, by God, government, you have to pay it. The lawyers say, government, you have no money, you better grant the request.

This is a full development rights. It is an attack on America's greatest heritage. It endangers wild and scenic species.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Chairman, in Washington everything looks perfect on paper and people hate to admit they made a mistake; but the truth of the matter is how it works in real life is completely different, and we have a responsibility to make those changes.

I strongly support this recovery act and thank the gentleman from California (Mr. POMBO) for his leadership and the gentleman from California (Mr. CARDOZA) for his hard work. My east Texas district, which was hit very hard by Hurricane Rita, is jam packed with trees. The piney woods are our heritage. They are our economy; and they provide habitat for the red cockheaded woodpecker, among other endangered species.

But for decades, responsible landowners have been afraid that the Federal Government would swoop in and take their livelihood away for the sake of this bird due simply to the outdated and unsubstantiated burdens of the Endangered Species Act.

America's farmers and ranchers and private property owners in east Texas have spent long enough fearing the Federal Government. Unfortunately, current law has created incentives for landowners to destroy species habitat to rid their properties of liability. I strongly support this measure.

Mr. CARDOZA. Mr. Chairman, I yield myself 1 minute to engage in a colloquy with the gentleman from California (Mr. POMBO).

Mr. Chairman, I believe it is critical for us to make sure we do not change the regulatory landscape on property owners regulated under existing law. These individuals, our constituents, are committed to doing what the Federal Government asked them to do in order to secure authorization to proceed with various activities. We should not require those same landowners to renegotiate what they have already agreed to under the new rules of this bill after it is enacted.

Based on that premise, I believe the Threatened and Endangered Species Recovery Act should include a grandfather clause to cover any ESA permits or approvals issued prior to the date of enactment of this bill, not just habitat conservation plans.

I would inquire, is that the intent of the gentleman from California (Mr. POMBO)?

Mr. POMBO. Mr. Chairman, will the gentleman yield?

Mr. CARDOZA. I yield to the gentleman from California.

Mr. POMBO. Mr. Chairman, that is the intent, yes, sir.

Mr. RAHALL. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin (Mr. KIND), a valued member of the Committee on Resources.

Mr. KIND. Mr. Chairman, I appreciate the approach that the committee is taking in trying to revamp and revise the Endangered Species Act. This has been a vitally important and successful act throughout recent decades. And while there is wide agreement here on the House floor that it should be amended and tweaked and improved on in light of past experience and modern times, we need to do it responsibly; and I believe that responsible approach is better reflected in the substitute that is being offered here today.

Unlike some in this Chamber who believe that the Endangered Species Act has been an unmitigated failure, there are countless success stories around the country. In my home State of Wisconsin, an example of how well it has worked, working with local officials and the stakeholders involved, the Higgins eye mussel has come back in the Mississippi River, which acts as a great filtration system in the river basin. The Karner blue butterfly, on the verge of extinction in Wisconsin, due to the Endangered Species Act and the recovery plan that was in place, is making a healthy comeback.

The whooping crane is making a strong comeback in the Necedah Wildlife Refuge, as has the granddaddy of them all, which has been referenced here today, the American bald eagle. If Members would like to see some bald eagles, come to western Wisconsin along the Mississippi during the spring and fall ice flows, and you will see literally thousands of them. There are new nests that are going up in habitat where they had never been found before. They are on the verge of being delisted because of their success story. EPA identified the adverse effects of DDT, Congress took action, and the bald eagle is resurging today.

And the grizzly bear that is about to be delisted in Yellowstone and portions of Montana from the threatened species list, I can personally attest to the strength of their comeback, having just been in Glacier Park in August and coming within 20 yards of a big grizzly bear and her two cubs. Fortunately, I was able to retreat, or I would have been a threatened or endangered species during that time.



The act has worked, and the point is there is a responsible approach that recognizes the bureaucratic red tape that we streamline, working with private property owners and also putting in place a strong recovery plan for species that makes more sense. That is the substitute. I encourage my colleagues to support the substitute.

Mr. POMBO. Mr. Chairman, I yield 1½ minutes to the gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Chairman, I serve a very rural district, a lot of landowners. Currently, a landowner with an endangered species on his land often sees the species as a threat to his survival. That is not good for the species, and it is certainly not good for the landowner. It is not working. It is largely adversarial. H.R. 3824 provides incentives for landowners to preserve endangered species, and this will help the species, and it will help people as well.

In 1978, 50 miles of the Central Platte River in Nebraska was designated as critical habitat for whooping cranes. Only 3 to 4 percent of the whooping cranes visit the Platte River annually. The great majority of whooping cranes never see the Platte River, never visit it at all; and so many have questioned this designation because this designation has led to a cooperative agreement between Nebraska, Colorado, and Wyoming involving thousands of acres of lands, hundreds of thousands of feet of water to support critical habitat; and it is still not complete after 8 years of spending millions of dollars.

So we have case after case after case like this where this thing simply is not working well. Hopefully, applying the best available current science required by this legislation will improve this process. I think it will. I thank the gentleman from California (Chairman POMBO) for his efforts, as well as the gentleman from California (Mr. CARDOZA), and ask support for H.R. 3824.

Mr. RAHALL. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Chairman, I thank the gentleman for yielding me this time.

I, too, come from a rural area. The two major industries in my district are agriculture and fishing. So we know the landscape and people cooperate. The present ESA, maybe it is because we are on the east coast, the present ESA bill is working fine. I know we need to tweak it because it does not work the same way all over the place, but I would urge my colleagues to support the substitute. Here are some reasons why:

In the substitute, there are specific criteria for science laid out. Members want good science; the methods, procedures, and practices are laid out. What species should be determined endangered, there are five criteria laid out on page 4 of the substitute. Members should review all species that are designated every 5 years.

We have repealed the critical habitat designations, but we have replaced it with recovery plans found on page 20 of the substitute. It has time frames and objective, measurable criteria. It has a very specific description of where that species should be recovered, and the emphasis of where that species should be recovered is not private land; it is public land. The emphasis is on public land; but whenever you go on private land, there should be some restitution, some sharing of Federal dollars with those private landowners; and 10 percent of the appropriated amount on an annual basis of this substitute will go for that very specific purpose.

What if livestock are endangered or threatened by a reintroduced species? That is taken care of. Landowners are going to be reimbursed for that lost livestock.

What about national security? Take a look at the substitute. There is a very specific exemption. Page 43 of the substitute, there is a national security exemption.

I urge my colleagues to vote for a specific, balanced ESA bill. Vote for the substitute.

Mr. RAHALL. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I thank the ranking member, my friend, for yielding me this time.

"Shortsighted men, in their greed and selfishness will, if permitted, rob our country of half its charm by the reckless extermination of all useful and beautiful wild things." So said Republican President Theodore Roosevelt almost 100 years ago, and how relevant his remarks are today.

If we cannot find a way to live in harmony and conserve our natural resources in a sustainable way, we humans may, too, be doomed to extinction. The Endangered Species Act is a litmus test on the degree to which we are willing to conserve our livable environment.

To date this act has succeeded. Its success rate is 99 percent. Only 7 out of 1,200 species, according to Fish and Wildlife Service, have become extinct, and they became extinct because of their status before they were listed.

There are problems with the Act that need to be addressed, but many of the changes embodied in this bill are not designed to fix the problems. They are designed to eviscerate the law. The proposal before us today will gut the law by making any recovery plan unenforceable and by creating a new compensation program for those who own land that may host a threatened or endangered species.

We are a Nation of laws and constitutional rights, but where in the Constitution does it say property rights are an immutable and an open-ended entitlement?

Where would we be as a Nation if the law did not allow reasonable government regulations of private property without payment of compensation if

undertaken for the public good? That kind of regulation occurs every day in every State in every locality throughout the country. It occurs as a result of practically every regulatory statute we pass. It is a long-standing principle of the jurisprudence of our courts. But this bill turns that principle on its head, and in so doing it creates a very dangerous precedent that this body should not knowingly adopt.

Section 13 of the bill establishes a new program of conservation aid; and under this program the government must provide compensation to landowners whenever an ESA restriction prevents a particular use of property, regardless of the fact that other uses of the property remain and those uses are very valuable.

This new aid program, therefore, requires the payment of compensation to landowners even though no governmental taking of their property has occurred. And rather than compensation being required where a restriction essentially strips property of all of its valuable uses, the standard under the takings clause, which exists today, this bill requires compensation whenever a restriction prevents a single use of property.

□ 1430

It is a standard for compensation that goes far beyond the standard imposed under the Constitution's "taking" clause, and it does not exist in any other Federal statute. If enacted, this bill will set a very dangerous precedent that could lead to the insertion of similar provisions in other environmental and regulatory statutes. It has to be rejected.

Mr. Chairman, as a member of the Interior, Environment, and Related Agencies Subcommittee of the Committee on Appropriations, I know that there are some problems with the implementation of this Act. The current "critical habitat" designation needs to be revised and should be established later in the process during the development of species recovery plans.

In that regard, the approach taken by the substitute put together by the gentleman from Michigan (Mr. DINGELL) and the gentleman from Washington (Mr. DICKS) and others is the right way to go and should be adopted.

Mr. Chairman, Federal land belongs to all of us. The Endangered Species Act is a vehicle through which we can conserve our land and balance the needs of all against the short-term and destructive interests of the few. I urge my colleagues to oppose the Threatened and Endangered Species Recovery Act, but strongly support the substitute.

The CHAIRMAN. The Committee will rise informally.

The Speaker pro tempore (Mr. PEARCE) assumed the Chair.