

November 17, 2011

The Honorable Lamar Smith
Chairman, Committee on the Judiciary
United States House of Representatives
2409 Rayburn House Office Building
Washington, DC 20515

The Honorable John Conyers, Jr.
Ranking Member, Committee on the Judiciary
United States House of Representatives
2426 Rayburn House Office Building
Washington, DC 20515

RE: Support for H.R. 1996, the Government Litigation Savings Act

Dear Chairman Smith and Ranking Member Conyers:

The undersigned livestock organizations strongly support H.R. 1996, the “Government Litigation Savings Act.” This bill would bring transparency and accountability to a flawed system that has led to the abuse of taxpayer dollars—and of countless farmers and ranchers who have had to defend their way of life against tax dollar-funded assaults by radical environmental groups. While we respect the original intent of the Equal Access to Justice Act (EAJA)—a leveled playing field between individual citizens and the powerful federal government—it has become a source of revenue for interest groups intent on halting our members’ every-day, sustainable production practices.

Through EAJA, these wealthy radical environmental groups obtain federal funding to target livestock producers by challenging federal agency land and resource use decisions in court—usually not for substantive reasons, but on grounds of minor process decisions. As a result, our members are forced to pay multiple times over to defend themselves: on the one hand, they pay attorney fees as intervenors in defense of the federal government (especially in federal lands grazing cases); on the other hand, as hard working citizens, their tax dollars go toward agency operations budgets, and toward filling the pockets of these vastly wealthy environmental groups with EAJA funds.

A vast number of livestock producers will be impacted by a recent, taxpayer-funded lawsuit between the U.S. Fish and Wildlife Service (FWS) and two environmental groups over the Endangered Species Act (ESA). FWS has recently been forced to reach settlement agreements and pay attorney fees to these groups for failing to respond within a statutorily mandated timeframe on hundreds of ESA listing petitions, the bulk of which were, in fact, filed by these same well-funded organizations. As a result of the settlement, FWS must now respond to hundreds of petitions in a short timeframe. The cost to livestock producers and landowners will skyrocket as the burden of proof now lies with them to disprove petitioners’ claims with valid scientific data that ESA listings are not warranted, but that the petitions are simply part of predatory special interest groups’ strategy of overloading the system. If the petitions, which will likely be rushed through the process by necessity, do result in species endangerment findings, livestock producers will bear the burden of costly regulatory implementation measures. This is just one example of blatant abuse of the well-intentioned EAJA.

H.R. 1996 would prevent organizations whose net worth exceeds \$7 million—such as the two mentioned above—from filing for EAJA payments, and require that EAJA filers show a direct and personal monetary interest in the action to be eligible for payments. It would also cap the exorbitant attorney fees these groups claim to be owed, which are often in excess of \$300 per hour. These and other measures of the Government Litigation Savings Act will help protect our members from the injustice of funding their own demise.

Additionally, H.R. 1996 would require oversight and reporting of EAJA payments, as well as a Government Accountability Office audit of EAJA payments over the past 15 years. According to attorney Karen Budd-Falen of Cheyenne, Wyoming, 12 environmental groups alone have filed more than 3,300 lawsuits over the

past decade, recovering over \$37 million in EAJA funds. Budd-Falen says that this is a conservative estimate, as accounting of EAJA expenditures has been scant, at best. This legislation will ensure that Congress and the American people are cognizant of how much we have spent and continue to spend on EAJA payments—and who collects them. During a time when federal spending and debt is skyrocketing, such accounting measures should be a minimum.

Likewise, during a time of economic hardship such as we face today, we must make every effort to thwart radical activists' attempts at harming our producers' livelihoods. Responsible resource use is a tradition livestock producers are obligated to live by if they are to continue successful operations that provide the country and world with food and fiber. EAJA payments are not encouraging conservation or wise resource use; they are encouraging destructive behavior on the parts of powerful special interest groups. We appreciate your recognition of the importance of this issue and look forward to today's markup.

Sincerely,

American Sheep Industry Association
American Veal Association
Association of National Grasslands
National Cattlemen's Beef Association
Public Lands Council

Arizona Cattle Feeders' Association
Arizona Cattle Growers' Association
Arizona Public Lands Council
California Cattlemen's Association
California Wool Growers Association
Central Committee of Nevada State Grazing Boards
Colorado Cattlemen's Association
Colorado Livestock Association
Colorado Public Lands Council
Colorado Wool Growers Association
Nevada Cattlemen's Association
Florida Cattlemen's Association
Georgia Cattlemen's Association
Hawaii Cattlemen's Council
Idaho Cattle Association
Idaho Wool Growers Association
Iowa Cattlemen's Association
Kansas Livestock Association
Minnesota State Cattlemen's Association
Missouri Cattlemen's Association
Montana Association of State Grazing Districts
Montana Public Lands Council
Montana Stockgrowers Association
Montana Wool Growers Association
Nevada Cattlemen's Association
New Mexico Cattle Growers' Association
New Mexico Wool Growers, Inc.
North Dakota Stockmen's Association
Ohio Cattlemen's Association

Oklahoma Cattlemen's Association
Oregon Cattlemen's Association
Pennsylvania Cattlemen's Association
South Dakota Cattlemen's Association
Texas Cattle Feeders Association
Texas & Southwestern Cattle Raisers Association
Utah Cattlemen's Association
Utah Wool Growers Association
Washington Cattlemen's Association
Washington Cattle Feeders Association
Wyoming Stock Growers Association

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