



THE SECRETARY OF THE INTERIOR
WASHINGTON

SEP 28 1999

Honorable Thomas J. Bliley
Chairman, Commerce Committee
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman;

This letter is to address the serious concerns of the undersigned Cabinet Secretaries over the amendment which may be offered to H.R. 2580, the Land Recycling Act of 1999, which is scheduled to be marked up by the Finance and Hazardous Materials Subcommittee on Wednesday, September 29. We, the Departments of the Interior, Agriculture, and Commerce, and the Administration strongly oppose this amendment to limit polluter liability for natural resource injuries. If this amendment were to become law, it would leave impaired those resources injured by hazardous substances, leave the public uncompensated for its losses, increase costs to the taxpayer, add to the complexity of assessing natural resources, and increase litigation.

Specifically, the amendment could end restoration of some injured resources that are essential to the health of the ecosystem. The amendment limits restoration to reinstatement of "uses" of resources. This language could be interpreted to mean that trustees cannot address injured resources that are not directly used by humans but serve as critical fish and wildlife habitat or important food sources for animals. Trustees could be barred from restoring injured resources, such as endangered species or wilderness areas, that are protected from human use but still have enormous value to the public. Where restoration is permitted, it could take a form that does not actually improve the resource. For example, a destroyed forest could be "restored" by merely putting in a hiking trail somewhere else.

Also, while consideration of cost is an important element in restoration selection, the amendment as drafted could require the performance of a cost-benefit analysis for all restoration alternatives, which will force trustees back into conducting the controversial valuation studies that the Administration has worked so hard to move away from.

The amendment imposes restrictions on damages for the interim loss of injured resources that will prevent the public from obtaining full compensation for its loss.

The amendment could impose a new burden on trustees to demonstrate in each case that their claim does not have any potential overlap with any theoretical private claim. This could generate substantial litigation given the complexity of the common law on public versus private rights, and could prevent the recovery of funds needed to effect full restoration.

Moreover, if any change to the natural resource damage provisions of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is contemplated, it should first address the confusing statute of limitations to ensure that claims are brought in an orderly fashion after the scope of appropriate restoration is known.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

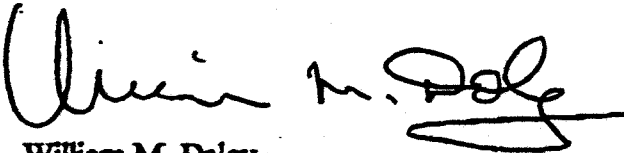
Sincerely,



Bruce Babbitt
Secretary of the Interior



Dan Glickman
Secretary of Agriculture



William M. Daley
Secretary of Commerce