

(c) CHOICE OF REMEDIES.—If, not later than 180 days after the written request is made, the parties do not come to an agreement as to the right to and amount of compensation, the owner may choose to take the matter to binding arbitration or seek compensation in a civil action.

(d) ARBITRATION.—The procedures that govern the arbitration shall, as nearly as practicable, be those established under title 9, United States Code, for arbitration proceedings to which that title applies. An award made in such arbitration shall include a reasonable attorney's fee and other arbitration costs (including appraisal fees). The agency shall promptly pay any award made to the owner.

(e) CIVIL ACTION.—An owner who does not choose arbitration, or who does not receive prompt payment when required by this section, may obtain appropriate relief in a civil action against the agency. An owner who prevails in a civil action under this section shall be entitled to, and the agency shall be liable for, a reasonable attorney's fee and other litigation costs (including appraisal fees). The court shall award interest on the amount of any compensation from the time of the limitation.

(f) SOURCE OF PAYMENTS.—Any payment made under this section to an owner, and any judgment obtained by an owner in a civil action under this section shall, notwithstanding any other provision of law, be made from the annual appropriation of the agency whose action occasioned the payment or judgment. If the agency action resulted from a requirement imposed by another agency, then the agency making the payment or satisfying the judgment may seek partial or complete reimbursement from the appropriated funds of the other agency. For this purpose the head of the agency concerned may transfer or reprogram any appropriated funds available to the agency. If insufficient funds exist for the payment or to satisfy the judgment, it shall be the duty of the head of the agency to seek the appropriation of such funds for the next fiscal year.

SEC. 7. LIMITATION.

Notwithstanding any other provision of law, any obligation of the United States to make any payment under this Act shall be subject to the availability of appropriations.

SEC. 8. DUTY OF NOTICE TO OWNERS.

Whenever an agency takes an agency action limiting the use of private property, the agency shall give appropriate notice to the owners of that property directly affected explaining their rights under this Act and the procedures for obtaining any compensation that may be due to them under this Act.

SEC. 9. RULES OF CONSTRUCTION.

(a) EFFECT ON CONSTITUTIONAL RIGHT TO COMPENSATION.—Nothing in this Act shall be construed to limit any right to compensation that exists under the Constitution or under other laws of the United States.

(b) EFFECT OF PAYMENT.—Payment of compensation under this Act (other than when the property is bought by the Federal Government at the option of the owner) shall not confer any rights on the Federal Government other than the limitation on use resulting from the agency action.

SEC. 10. DEFINITIONS.

For the purposes of this Act—

(1) the term "property" means land and includes the right to use or receive water;

(2) a use of property is limited by an agency action if a particular legal right to use that property no longer exists because of the action;

(3) the term "agency action" has the meaning given that term in section 551 of title 5, United States Code, but also includes the making of a grant to a public authority conditioned upon an action by the recipient

that would constitute a limitation if done directly by the agency;

(4) the term "agency" has the meaning given that term in section 551 of title 5, United States Code;

(5) the term "specified regulatory law" means—

(A) section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344);

(B) the Endangered Species Act of 1979 (16 U.S.C. 1531 et seq.);

(C) title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.); or

(D) with respect to an owner's right to use or receive water only—

(i) the Act of June 17, 1902, and all Acts amendatory thereof or supplementary thereto, popularly called the "Reclamation Acts" (43 U.S.C. 371 et seq.);

(ii) the Federal Land Policy Management Act (43 U.S.C. 1701 et seq.); or

(iii) section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604);

(6) the term "fair market value" means the most probable price at which property would change hands, in a competitive and open market under all conditions requisite to a fair sale, between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts, at the time the agency action occurs;

(7) the term "State" includes the District of Columbia, Puerto Rico, and any other territory or possession of the United States; and

(8) the term "law of the State" includes the law of a political subdivision of a State.

The bill, as amended, was ordered to be engrossed and read a third time, was read a third time by title.

The question being put, viva voce, Will the House pass said bill?

The SPEAKER pro tempore, Mr. HANSEN, announced that the yeas had it.

Mr. CANADY demanded that the vote be taken by the yeas and nays, which demand was supported by one-fifth of the Members present, so the yeas and nays were ordered.

The vote was taken by electronic device.

It was decided in the affirmative { Yeas 277 Nays 148

¶37.12

[Roll No. 197]

YEAS—277

- Allard Bryant (TN) Cunningham
Archer Bunn Danner
Armye Bunning Davis
Bachus Burr de la Garza
Baesler Burton Deal
Baker (CA) Buyer DeLay
Baker (LA) Callahan Diaz-Balart
Baldacci Calvert Dickey
Ballenger Camp Dooley
Barcia Canady Doolittle
Barr Chabot Doyle
Barrett Chambliss Dreier
Bartlett Chapman Duncan
Barton Chapmen Dunn
Bass Christensen Durbin
Bateman Chrysler Edwards
Bentsen Clinger Ehrlich
Bereuter Coble Emerson
Bevill Coburn English
Bilbray Collins (GA) Ensign
Billrakis Combust Everrett
Bishop Condit Ewing
Bliley Cooley Fawell
Boehner Costello Fazio
Bonilla Cox Fields (TX)
Bono Cramer Flanagan
Brewster Crane Foley
Browder Crapo Forbes
Brown (OH) Cremeans Fowler
Brownback Cubin Fox

- Franks (CT)
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Gerens
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Graham
Green
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Knollenberg
Kolbe
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martinez
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Molinari
Mollohan
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Portman
Poshard
Pryce
Quillen
Radanovich
Regula
Reynolds
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff

NAYS—148

- Abercrombie
Ackerman
Andrews
Barrett (WI)
Becerra
Beilenson
Berman
Blute
Boehlert
Bonior
Borski
Boucher
Brown (FL)
Cardin
Castle
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Conyers
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Franks (NJ)
Frelinghuysen
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Goss
Greenwood
Gutierrez
Hastings (FL)
Hinchev
Hoyer
Jackson-Lee
Jefferson
Johnson (CT)
Johnson, E.B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennedy
Kildee
Kleczka
Klink
Klug
LaFalce
Lazio
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martini
Matsui
McCarthy
McDermott
Meehan
Meek
Menendez
Mfume
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi

Table with 3 columns of names: Porter, Quinn, Rahall, Ramstad, Read, Richardson, Rivers, Roukema, Roybal-Allard, Rush, Sabo, Sanders, Sawyer, Schiff, Schroeder, Schumer, Serrano, Shays, Skaggs, Slaughter, Stark, Stokes, Studds, Thompson, Torkildsen, Torres, Torricelli, Tucker, Velazquez, Vento, Visclosky, Ward, Waters, Watt (NC), Waxman, Williams, Wise, Woolsey, Wyden, Yates, Zimmer

NOT VOTING—9

Table with 3 columns of names: Brown (CA), Bryant (TX), Collins (IL), Dornan, Gonzalez, Johnston, McKinney, Moakley, Rangel

So the bill was passed.

A motion to reconsider the vote whereby said bill was passed was, by unanimous consent, laid on the table.

37.13 CLERK TO CORRECT ENGROSSMENT

On motion of Mr. CANADY, by unanimous consent,

Ordered, That in the engrossment of the foregoing bill the Clerk be authorized to correct section numbers, cross references, and punctuation, and to make such stylistic, clerical, technical, conforming, and other changes as may be necessary to reflect the actions of the House in amending the bill.

37.14 JOB CREATION AND WAGE ENHANCEMENT

Mr. DELAY, pursuant to section 2 of House Resolution 101, called up the bill (H.R. 9) to create jobs, enhance wages, strengthen property rights, maintain certain economic liberties, decentralize and reduce the power of the Federal Government with respect to the States, localities, and citizens of the United States and to increase the accountability of Federal officials.

When said bill was considered and read twice.

Mr. DELAY, pursuant to said resolution, submitted the following amendment:

Strike all after section 1 of the bill and insert the text composed of four divisions as follows:

- (1) division A, consisting of the text of H.R. 830, as passed by the House;
(2) division B, consisting of the text of H.R. 925, as passed by the House;
(3) division C, consisting of the text of H.R. 926, as passed by the House; and
(4) division D, consisting of the text of H.R. 1022, as passed by the House.

The previous question on the motion to amend and on the bill having been ordered by said resolution.

The question being put, viva voce, Will the House agree to the amendment?

The SPEAKER pro tempore, Mr. HANSEN, announced that the yeas had it.

So the amendment was agreed to. The bill, as amended, was ordered to be engrossed and read a third time, was read a third time by title.

Mr. SPRATT moved to recommit the bill to the Committee on Science with instructions to report the bill back to the House forthwith with the following amendment:

In Division D of H.R. 9, consisting of the text of H.R. 1022, as passed by the House, strike the following text:

Section 204. Environmental Clean-up. For the purposes of this title, any determination by a Federal agency to approve or reject any proposed or final environmental clean-up plan for a facility the costs of which are likely to exceed \$5,000,000 shall be treated as a major rule subject to the provisions of this title (other than the provisions of section 205(a)(5)). As used in this section, environmental clean-up means a corrective action under the Solid Waste Disposal Act, a remedial action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and any other environmental restoration and waste management carried out by or on behalf of a Federal agency with respect to any substance other than municipal waste.

By unanimous consent, the previous question was ordered on the motion to recommit with instructions.

The question being put, viva voce, Will the House recommit said bill with instructions?

The SPEAKER pro tempore, Mr. HANSEN, announced that the nays had it.

Mr. SPRATT demanded a recorded vote on agreeing to said motion, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the negative { Yeas 180 Nays 239

37.15 [Roll No. 198] AYES—180

Table with 3 columns of names: Abercrombie, Ackerman, Andrews, Baldacci, Barrett (WI), Becerra, Beilenson, Bentsen, Berman, Bevill, Bishop, Boehlert, Bonior, Borski, Boucher, Browder, Brown (FL), Brown (OH), Cardin, Chapman, Clay, Clayton, Clement, Clyburn, Coleman, Collins (MI), Conyers, Costello, Coyne, Cramer, Deal, DeFazio, DeLauro, Dellums, Deutsch, Dicks, Dingell, Dixon, Doggett, Dooley, Doyle, Durbin, Edwards, Engel, Eshoo, Evans, Farr, Fattah, Fazio, Fields (LA), Filner, Flake, Foglietta, Ford, Frank (MA), Frost, Furse, Gejdenson, Gephardt, Geren, Gibbons, Gordon, Gutierrez, Hall (OH), Hamilton, Harman, Hastings (FL), Hefner, Hilliard, Hinchey, Holden, Hoyer, Jackson-Lee, Jacobs, Jefferson, Johnson (SD), Johnson, E.B., Kanjorski, Kaptur, Kennedy (MA), Kennedy (RI), Kennelly, Kildee, Kleczka, Klink, LaFalce, Lantos, Levin, Lewis (GA), Lincoln, Lipinski, Lofgren, Lowey, Luther, Maloney, Manton, Markey, Martinez, Mascara, Matsui, McCarthy, McDermott, McHale, McKinney, McNulty, Meehan, Meek, Menendez, Mfume, Mineta, Minge, Mink, Mollohan, Moran, Morella, Murtha, Nadler, Neal, Oberstar, Obey, Olver, Ortiz, Orton, Owens, Pallone, Pastor, Payne (NJ), Payne (VA), Peterson (FL), Peterson (MN), Pomeroy, Poshard, Rahall, Reed, Richardson, Rivers, Roemer, Rose, Roybal-Allard, Rush, Sabo, Sanders, Sawyer, Schroeder, Schumer, Scott, Serrano, Skaggs, Skelton, Slaughter, Spratt, Stark, Stenholm, Stokes, Studds, Stupak, Tanner, Tejada, Thompson, Thornton, Thurman, Torres, Torricelli, Towns, Traficant, Tucker, Velazquez, Vento, Visclosky, Volkmer, Ward, Waters, Watt (NC), Waxman, Williams, Wise, Woolsey, Wyden, Yates

Table with 3 columns of names: Skaggs, Skelton, Slaughter, Spratt, Stark, Stenholm, Stokes, Studds, Stupak, Tanner, Tejada, Thompson, Thornton, Thurman, Torres, Torricelli, Towns, Traficant, Tucker, Velazquez, Vento, Visclosky, Volkmer, Ward, Waters, Watt (NC), Waxman, Williams, Wise, Woolsey, Wyden, Yates

NOES—239

Table with 3 columns of names: Allard, Archer, Army, Bachus, Baesler, Baker (CA), Baker (LA), Ballenger, Barcia, Barr, Barrett (NE), Bartlett, Barton, Bass, Bateman, Bereuter, Bilbray, Bilirakis, Bilely, Blute, Boehner, Bonilla, Bono, Brewster, Brownback, Bryant (TN), Bunn, Bunning, Burton, Buyer, Callahan, Calvert, Camp, Canady, Castle, Chabot, Chambliss, Chenoweth, Christensen, Chrysler, Clinger, Coble, Coburn, Collins (GA), Combust, Condit, Cooley, Cox, Crane, Crapo, Cremeans, Cubin, Cunningham, Danner, Davis, de la Garza, DeLay, Diaz-Balart, Dickey, Doolittle, Dreier, Duncan, Dunn, Ehlers, Ehrlich, Emerson, English, Ensign, Everett, Ewing, Fawell, Fields (TX), Flanagan, Foley, Forbes, Fowler, Fox, Franks (CT), Franks (NJ), Frelinghuysen, Frisa, Funderburk, Gallegly, Ganske, Gekas, Gilchrest, Gillmor, Gilman, Goodlatte, Goodling, Goss, Graham, Greenwood, Gunderson, Gutknecht, Hall (TX), Hancock, Hansen, Hastert, Hastings (WA), Hayworth, Hefley, Heineman, Herger, Hilleary, Hobson, Hoekstra, Hoke, Horn, Hostettler, Houghton, Hunter, Hutchinson, Hyde, Inglis, Istook, Johnson (CT), Johnson, Sam, Jones, Kasich, Kelly, Kim, King, Kingston, Klug, Knollenberg, Kolbe, LaHood, Largent, Latham, LaTourette, Lazio, Leach, Lewis (CA), Lewis (KY), Lightfoot, Linder, Livingston, LoBiondo, Longley, Lucas, Manzullo, Martini, McCollum, McCrery, McDade, McHugh, McInnis, McIntosh, McKeon, Metcalf, Meyers, Mica, Miller (FL), Molinari, Moorhead, Myers, Myrick, Nethercutt, Neumann, Ney, Norwood, Nussle, Oxley, Packard, Parker, Paxon, Petri, Pickett, Pombo, Porter, Portman, Pryce, Quillen, Quinn, Radanovich, Ramstad, Regula, Reynolds, Riggs, Roberts, Rogers, Rohrabacher, Ros-Lehtinen, Roth, Roukema, Royce, Salmon, Sanford, Saxton, Scarborough, Schaefer, Schiff, Seastrand, Sensenbrenner, Shadegg, Shaw, Shays, Shuster, Siskisky, Skeen, Smith (MI), Smith (NJ), Smith (TX), Smith (WA), Solomon, Souder, Spence, Stearns, Stockman, Stump, Talent, Tate, Tauzin, Taylor (MS), Taylor (NC), Thomas, Thornberry, Tiahrt, Torkildsen, Upton, Vucanovich, Waldholtz, Walker, Walsh, Wamp, Watts (OK), Weldon (FL), Weldon (PA), Weller, White, Whitfield, Wicker, Wilson, Wolf, Young (AK), Young (FL), Zeliff, Zimmer

NOT VOTING—15

Table with 3 columns of names: Brown (CA), Bryant (TX), Burr, Collins (IL), Dornan, Gonzalez, Green, Hayes, Johnston, Laughlin, Miller (CA), Moakley, Montgomery, Pelosi, Rangel