

DISSENTING VIEWS

We oppose H.R. 986 in its current form and urge the Majority to adopt our amendment to protect the private property rights of “Mom and Pop” landowners within the river corridor.

H.R. 986, as introduced, made a tepid attempt to prohibit condemnation of private property by the National Park Service. Thus, Congressman Rob Bishop proposed an amendment to strengthen the bill, believing it was imperative to have iron-clad property rights protections—especially in the Congressional district where the historic U.S. Supreme Court case *Kelo v. City of New London* originated.

The Majority is willing to expose the private property rights of “Mom and Pop” landowners within this river corridor to language that identifies a point in time, more than two years ago, when local zoning regulations were deemed to satisfy a requirement in the Wild and Scenic Rivers Act that prohibits condemnation. Since H.R. 986 is silent on what the Secretary of the Interior’s authority will be when these same regulations are locally amended, it may trigger the National Park Service’s ability to condemn land within the river corridor.

H.R. 986 was rushed to subcommittee markup approximately 52 hours following the legislative hearing and before follow-up questions could be answered by the National Park Service or even before a transcript was made available. No comprehensible reason was given for this sense of urgency, which clearly impairs the legislative process.

As noted above, Congressman Rob Bishop offered an amendment at the subcommittee markup that strictly prohibited the National Park Service from acquiring land by condemnation, but allowing the purchase of land or the Park Service to accept donated lands. Subcommittee Chairman Grijalva then offered a substitute amendment to the Bishop amendment to reinsert convoluted legislative language in the bill that does nothing to prohibit condemnation.

At the Full Committee markup, Congressman Bishop attempted again to add language to protect the rights of private property owners by prohibiting the use of federal funds to condemn land within the river corridor. While the Majority acknowledged that the Bishop language would accomplish its goals, it stubbornly lamented it would be “redundant” to its convoluted language in the bill. We believe strongly that protection of private property rights, which were considered so sacred by our Founding Fathers to be included in the Bill of Rights, should never be considered “redundant.”

History shows that the mere threat of condemnation is the hammer used to force middle-class landowners into becoming “willing sellers” to federal agencies. These hard working and Godfearing folks do not have the time and money to counter high-priced lawyers working for the U.S. Department of Justice. As a result, they

never show up in the U.S. Department of Justice statistics entitled "condemnation cases by agency."

H.R. 986 will expose the private property owners along the river and throughout the watershed to strict regulations that amount to down-zoning. One of these regulations puts a cap on the amount of impervious surfaces in the watershed. If a property owner within the watershed had plans to add a room to his home, the roof would constitute an impervious surface and he will be barred from construction. Another regulation would prohibit simple landscaping because the land may be in a riparian corridor and will have to remain in its "natural native condition." These are just two examples of regulations found in the management plan this bill gives a Congressional blessing to.

H.R. 986 should come before the House under a fair and open process that allows it to be amended to protect the private property rights of "Mom and Pop" landowners.

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