

103^D CONGRESS
1ST SESSION

H. R. 1388

To compensate owners for the diminution in value of their property as a result of Federal actions under certain laws, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 1993

Mr. SMITH of Oregon introduced the following bill; which was referred jointly to the Committees on Merchant Marine and Fisheries, Public Works and Transportation, and Natural Resources

A BILL

To compensate owners for the diminution in value of their property as a result of Federal actions under certain laws, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Just Compensation
5 Act of 1993”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that there are certain Federal
8 laws, regulations, and actions which substantially ad-
9 versely affect the value of private property.

1 **SEC. 3. PURPOSE.**

2 The purpose of this Act is to reduce the risk of undue
3 or inadvertent burdens on the public resulting from cer-
4 tain lawful governmental actions.

5 **SEC. 4. PRIVATE PROPERTY.**

6 As used in this Act, the term “private property” in-
7 cludes all property protected by the Fifth Article of
8 Amendment to the United States Constitution, including
9 (but not limited to) real and personal property and tan-
10 gible and intangible property.

11 **SEC. 5. COMPENSATION FOR DIMINUTION IN VALUE OF**
12 **PRIVATE PROPERTY RIGHTS.**

13 (a) IN GENERAL.—The head of any Federal agency
14 who takes an action under any of the provisions of law
15 specified in subsection (d), or regulations issued pursuant
16 to any of such laws, shall compensate the owner of private
17 property for any diminution in value caused by the action.
18 Action may cause the diminution in value of private prop-
19 erty—

20 (1) even though the action results in less than
21 a complete deprivation of all use or value or of all
22 separate distinct interests in the same private prop-
23 erty; and

24 (2) even if the action is temporary in nature.

25 (b) DUTY OF FEDERAL AGENCY HEADS.—The head
26 of each Federal agency shall, at the time of issuing regula-

1 tions or undertaking any activity under any of the provi-
2 sions of law specified in subsection (d), determine whether
3 such regulations or activity results in the diminution in
4 value of private property such that such diminution is
5 compensable under this Act.

6 (c) COMPENSATION.—(1) Within 60 days after the
7 date of issuance of any such regulation or the taking of
8 any such action which results in a diminution in value of
9 private property which is compensable under this Act, the
10 head of the Federal agency concerned shall make an offer
11 of compensation to the owner of the private property af-
12 fected. Any offer made under this paragraph shall be ef-
13 fective for one year.

14 (2) Such owner may reject the offer and, within one
15 year after such rejection, file a claim for compensation in
16 the United States Claims Court for a determination of the
17 value of the property affected. In addition to awarding fair
18 market value for the property affected, the court may
19 award reasonable attorney's fees and expenses of litiga-
20 tion.

21 (3) In any case in which the property affected in-
22 volves lands, such owner, in lieu of a claim under para-
23 graph (2), may exchange in accordance with applicable
24 Federal law lands affected by such law, regulation, or ac-
25 tivity.

1 (4) Such owner may also accept such compensation
2 as may be available under other laws for tax benefits, min-
3 eral rights credits, and comparable offers for value by the
4 United States.

5 (5) Any cash settlement or judgment from the United
6 States Claims Court pursuant to paragraph (2) shall be
7 paid as a matter of right from the land and water con-
8 servation fund established by section 2 of the Land and
9 Water Conservation Fund Act of 1965 (16 U.S.C. 460l-
10 5).

11 (d) LAWS.—The provisions of law referred to in this
12 section are the following:

13 (1) The Endangered Species Act of 1973 (16
14 U.S.C. 1531 et seq.).

15 (2) Section 404 of the Federal Water Pollution
16 Control Act (33 U.S.C. 1344) as it applies to wet-
17 lands.

18 (3) The Surface Mining Control and Reclama-
19 tion Act of 1977 (30 U.S.C. 1201 et seq.).

20 (4) Subsections (c), (d), (e), and (f) of section
21 9 of the National Trails System Act (16 U.S.C.
22 1248).

23 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

24 There is authorized to be appropriated such sums as
25 may be necessary to carry out this Act.

1 **SEC. 7. EFFECTIVE DATE.**

2 This Act shall apply to any activity of the United
3 States Government after the date of enactment of this Act.

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