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Comments: August 31, 2011 - US SENATE ... GAO REPORT EXPOSES MILLIONS IN ENVIRONMENTAL LITIGATION FEES FOR FIRST TIMEGAO report litigation - www.GAOreportlitigation.pdf and

<http://www.gao.gov/products/GAO-11-650> and <http://www.gao.gov/assets/330/322395.pdf>... Washington, D.C. -

A new Government Accountability Office (GAO) report requested by Senator James Inhofe (R-OK), Ranking Member of the Senate Committee on Environment and Public Works, and Senator David Vitter (R-LA), a member of the EPW Committee, was released today. Under various statutes, EPA and the Treasury Department are required to reward attorneys' fees to plaintiffs that successfully challenge EPA. Based on a snapshot of EPA's litigation from 1995-2010, the report finds that environmental groups (ENGOS) profited more than any other plaintiff. The report includes litigation costs for all EPA environmental statutes except the National Environmental Policy Act (NEPA). one litigant-Earth J. received \$4,655,425.60 or 32 percent of all attorneys' fees paid to EPA litigants. The GAO report uncovers, for the first time, the millions of taxpayer dollars that are going to attorneys' fees for environmental litigation against the Environmental Protection Agency (EPA). Yet the report is limited because GAO, the government watchdog, was unable to obtain information from several federal agencies during the requested time period from 1995-2010. In addition to attorneys' fees awarded, the GAO found that the Department of Justice (DOJ) spent at least \$43 million in taxpayer dollars defending EPA in court from 1998 - 2010. Further, the report uncovered that most of the attorneys' fees paid to environmental organizations were paid under the Clean Air Act, followed next by the Clean Water Act. The report is part of a continued effort by Senators Inhofe and Vitter to ensure greater transparency at EPA. Senator Inhofe: "Today's GAO report is the tip of the iceberg as we work to get to the bottom of just how many taxpayer dollars are going to pay attorneys' fees in environmental suits. It is outrageous that these agencies couldn't provide the requested information and it is even more concerning that we have yet to get the full story. lack of transparency on the part of EPA, DOJ, and the Department of Treasury as GAO was unable to obtain information for several years of litigation payments. Senator Vitter: "The GAO report shows that taxpayers have been on the hook for years while 'Big Green' trial lawyers have raked in millions of dollars suing the government. Even worse, because of sloppy record keeping by the EPA and other agencies and a lack of cooperation by the Justice Department, we're not even sure how bad the problem really is. This is unacceptable and I'm going to continue working to demand greater transparency." Government Accountability Office (GAO) uncovered a troubling lack of transparency and accountability in record keeping regarding environmental litigation expenses incurred in EPA litigation.

Specifically, GAO found: Inconsistent formatting of key data elements produced significant problems for completing our analysis and required significant manual review by GAO and Justice. The Department of Justice does not have a standard approach for maintaining key data on environmental litigation cases, and the data they do collect are in two separate databases that do not collect the same type of data on environmental cases. EPA does not track its attorneys' time by case, GAO was not able to include data on EPA attorney costs spent on environmental litigation cases. GAO was unable to calculate the total number of hours that Justice Attorneys worked on environmental cases - and hence, total costs of attorney time - because the U.S. Attorneys' time is not tracked by case. The Department of Treasury does record data on payments made from its Judgment Fund, an account within the Treasury Department authorized under the Equal Access to Justice Act for rewarding attorneys' fees to successful plaintiffs, but does not publish them. The government may also incur other costs associated with litigation, including the costs of revising regulations in response to lawsuits, EPA overhead costs, and costs associated with delays in EPA permitting, but GAO did not have reliable data to quantify these costs. Plug hole, Improve Transparency and Accountability. STOP ENVIRONMENTAL LITIGATION FEES