

103^D CONGRESS
2^D SESSION

H. R. 3784

To provide for compensation to owners of property substantially diminished in value as a consequence of a final decision of any United States agency.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 2, 1994

Mr. SMITH of Texas introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide for compensation to owners of property substantially diminished in value as a consequence of a final decision of any United States agency.

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. COMPENSATION FOR PROPERTY SUBSTAN-**
4 **TIALLY DIMINISHED IN VALUE.**

5 (a) ELIGIBILITY.—A property owner who, as a con-
6 sequence of a final decision of any department, agency,
7 or instrumentality of the United States is denied, in writ-
8 ing, the right to develop or physically alter private prop-
9 erty owned or held by the property owner which results
10 in the property owner being deprived of the beneficial or

1 productive use of the property is entitled to receive com-
2 pensation in accordance with this section.

3 (b) DEADLINE.—Within 90 days after a denial re-
4 ferred to in subsection (a), the property owner may submit
5 in writing a request to the department, agency, or instru-
6 mentality head for compensation in accordance with sub-
7 section (c).

8 (c) DEPARTMENT, AGENCY, OR INSTRUMENTALITY
9 HEAD'S OFFER.—The department, agency, or instrumen-
10 tality head, within 90 days after the receipt of a request
11 for compensation, shall provide to the property owner—

12 (1) an offer to purchase the affected property
13 of the property owner at a fair market value assum-
14 ing no use restrictions under the laws or regulations
15 on which the denial referred to in subsection (a) is
16 based; and

17 (2) an offer to compensate the property owner
18 for the difference between the fair market value of
19 the property without those restrictions and the fair
20 market value of the property with those restrictions.

21 (d) PROPERTY OWNER'S RESPONSE.—A property
22 owner shall have 60 days after the date of receipt of the
23 department, agency, or instrumentality head's offers
24 under subsection (c) to accept one of the two offers or
25 to reject both offers. If the property owner rejects both

1 offers, the property owner may submit the matter for arbi-
2 tration to an arbitrator appointed by the department,
3 agency, or instrumentality head from a list of arbitrators
4 submitted to the department, agency, or instrumentality
5 head by the American Arbitration Association. The arbi-
6 tration shall be conducted in accordance with the real es-
7 tate valuation arbitration rules of that association. For
8 purposes of this section, an arbitration shall be binding
9 on the department, agency, or instrumentality head and
10 a property owner as to the amount, if any, of compensa-
11 tion owed to the property owner and whether for purposes
12 of this section the property owner has been substantially
13 deprived of the economically viable use of the affected
14 property.

15 (e) OTHER REMEDIES NOT AFFECTED.—Nothing in
16 this section shall affect the right of a property owner to
17 pursue any other remedy available at law.

18 (f) JUDGMENT.—A denial referred to in subsection
19 (a) is deemed, at the option of the property owner, to be
20 a taking under the Constitution of the United States and
21 a judgment against the United States if the property
22 owner—

23 (1) accepts an offer by the department, agency,
24 or instrumentality head under subsection (d); or

25 (2) submits to arbitration under subsection (d).

1 (g) PAYMENT.—The department, agency, or instru-
2 mentality head shall pay a property owner any compensa-
3 tion required under the terms of an offer of the depart-
4 ment, agency, or instrumentality head that is accepted by
5 the property owner in accordance with subsection (d), or
6 under a decision of an arbiter under that subsection, by
7 not later than 60 days after the date of the acceptance
8 or the date the issuance of the decision, respectively.

9 (h) DEFINITIONS.—For the purposes of this section:

10 (1) PROPERTY.—The term “property” means—

11 (A) land;

12 (B) any interest in land, including re-
13 corded liens or other security interests in such
14 land; and

15 (C) any proprietary water right, including
16 any recorded liens on such proprietary water
17 right.

18 (2) PROPERTY OWNER.—The term “property
19 owner” means a person who—

20 (A) owns property referred to in paragraph

21 (1) (A) or (B);

22 (B) holds property referred to in para-
23 graph (1)(C); or

24 (C) holds a legal, financial, or beneficial in-
25 terest in property referred to in paragraph (1).

1 (3) SUBSTANTIALLY DEPRIVED OF THE BENE-
2 FICIAL OR PRODUCTIVE USE.—The term “substan-
3 tially deprived of the beneficial or productive use of
4 private property” includes economic loss through di-
5 minished development rights and the taking of pri-
6 vate lands that results in a decrease in the fair mar-
7 ket value of that property.

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