Green Scissors 2004

Cutting Wasteful & Environmentally Harmful Spending

Friends of the Earth > Taxpayers for Common Sense > U.S. Public Interest Research Group

20/20 Vision > American Lands Alliance > American Rivers > The Concord Coalition

EarthWorks > National Audubon Society > National Priorities Project > Physicians for Social Responsibility

Public Citizen > Public Employees for Environmental Responsibility

Rep America (Republicans for Environmental Protection) > Sierra Club > The Wilderness Society

The organizations listed above do not necessarily endorse or have expertise on every recommendation in this report.

Introduction

Budgets are more than just numbers, they are about setting priorities. With skyrocketing budget deficits, Congress must decide where its priorities lie — what will be funded and what will be cut. The Green Scissors Campaign, and the report that follows, offers a few practical solutions to policymakers that will assist in reducing the federal deficit while simultaneously protecting the environment. These are win-win solutions that benefit taxpayers and the environment; the public and politicians; and provide an invaluable opportunity for decisionmakers to navigate the challenging fiscal and environmental decisions that lie ahead.

A Turn for the Worse

Our nation faces a grim financial future with enormous budget deficits and out-of-control federal spending. In the span of a few years, once record-setting surpluses have become record-setting deficits. In January 2001, the Congressional Budget Office (CBO) predicted federal budget surpluses totaling $5.6 trillion over 10 years.[1] Since then, the financial picture has changed dramatically. The CBO's new 10-year predictions estimate a budget deficit of $1.9 trillion.[2] Separate and independent analyses by the Brookings Institution, the Committee for Economic Development, The Concord Coalition, and the Center for Budget and Policy Priorities estimate deficits of more than $5 trillion over the next 10 years.[3] For fiscal year 2004, the Bush administration has predicted a deficit of more than $521 billion.[4]

At the same time, the nation's environmental outlook is no brighter. Over the past three years, the Bush administration and Congress have weakened several landmark environmental laws, including the National Environmental Policy Act, the Clean Air Act, and the Clean Water Act, while simultaneously doling out billions of dollars in handouts to polluting industries.[5] The environmental impacts of these devastating policies are just as stark as the economic ones. More than 137 million Americans — nearly half the population — live in areas where smog pollution makes the air unsafe to breathe, and every year tens of thousands of lives are cut short by air pollution.[6] Thirty years after the Clean Water Act was passed, more than 40 percent of our rivers, lakes, and streams remain unsafe for swimming and fishing.[7] Despite these problems, Congress continues to fund industries and programs that burden our health, environment, and economy.

In the face of these budgetary and environmental challenges, the Green Scissors Campaign believes success depends on finding areas of agreement rather than excuses to disagree. Beyond the traditional partisan debates on taxes and spending there is an opportunity for productive bipartisan work. Irrespective of one's political affiliation, it simply does not make sense to waste billions of dollars on programs that harm the environment — particularly in the current era of budget deficits. Political leaders need to unite behind a common-sense agenda that will end wasteful and environmentally harmful spending.

A New Political Alliance: The Green Scissors Caucus

In July 2003, members of Congress led by Reps. Christopher Shays (R-Conn.), Earl Blumenauer (D-Ore.), Steve Chabot (R-Ohio), and Robert Andrews (D-N.J.) created the Green Scissors Caucus. The Caucus unites members of Congress behind the fundamental principle of eliminating environmentally harmful and wasteful spending.

The Campaign

Led by Friends of the Earth, Taxpayers for Common Sense, and the U.S. Public Interest Research Group, the Green Scissors Campaign works with Congress and the administration to end wasteful and environmentally harmful spending. With strong bipartisan support, the Campaign has succeeded in cutting funding for wasteful federal programs by more than $26 billion.

The *Green Scissors 2004* Report: Setting Priorities

In the past, the *Green Scissors* report has targeted 68 programs and policies for reform or elimination that would save taxpayers more than $58 billion. These recommendations can be viewed at www.greenscissors.org or in the *Green Scissors 2003* report. While the Campaign continues to support these proposals, the *Green Scissors 2004* report focuses on a few particularly egregious policies and programs that should be addressed immediately.

The *Green Scissors 2004* report targets five issues:

- Delaware River Deepening Project, page 4
- Market Access Program, page 7
- Section 29 Tax Credit for Nonconventional Fuels, page 10
- Small Business Tax Credit for Sport Utility Vehicles, page 13
- Timber Roads Subsidies, page 11

Green Scissors Methodology

Members of the Green Scissors Campaign selected the programs in this report in consultation with a variety of

experts and advocates from across the country. The Campaign evaluated programs based on a combination of factors including cost to taxpayers, negative environmental consequences, and current political status. Many of the programs highlighted in this report involve complex issues and are part of a broader debate.

How were the savings estimated?

Unless otherwise indicated, the savings figures in *Green Scissors 2004* represent the total cost of a project to federal taxpayers over the life of the project. Where such information is not available, the savings figure provided is an estimate of the five-year savings to taxpayers. These numbers are generally intended to be illustrative rather than exact because of the number of variables involved. The savings given are conservative estimates, and phase-in periods are usually not accounted for unless Congressional Budget Office estimates are used.

Victories

Over the past year, the work of the Green Scissors Campaign has been instrumental in securing important victories for taxpayers and the environment.

Defeat of the Energy Bill

For three years, the Bush administration and Congress have tried to pass a federal energy bill that would reward corporate polluters with billions of dollars in new tax breaks and subsidies. The final conference report contained more than $37 billion in taxpayer subsidies for the oil and gas, coal, and nuclear industries. The Green Scissors Campaign worked tirelessly to highlight these corporate giveaways and to build public and congressional opposition to the bill. In November, taxpayers and the environment scored a huge victory when the Senate successfully filibustered the final energy bill. Unfortunately, Congress is trying to revive this disastrous bill, which would place an even greater burden on taxpayers and the environment while doing little for our energy future.

Western Transportation Corridor, Virginia
Saved more than $1.5 billion

On May 14, 2003, the Commonwealth of Virginia announced that it would drop funding for the Western Transportation Corridor (WTC) environmental impact study from the state's six-year transportation plan. The proposed WTC would run mostly through rural land from the Rappahannock River near Fredricksburg, Va., to the Potomac River near Leesburg, Va., for a total distance of approximately 60 miles. Originally proposed as a Washington bypass, the purpose of the project changed when Maryland canceled its participation because of the project's cost and failure to provide congestion relief. The WTC would encourage sprawling development, severely affect wetlands, and put agricultural lands at risk. Studies show it would not relieve regional congestion but would instead lead to increased traffic on intersecting highways.

Defeat of the Oregon Inlet Jetties Project, North Carolina
Saved $108 million

In May 2003, the Green Scissors Campaign scored an important victory when the Oregon Inlet Jetties project in the Outer Banks of North Carolina was killed by mutual agreement of the President's Council on Environmental Quality, Department of the Interior, National Oceanic and Atmospheric Administration, and the Department of Army. Generations of activists have opposed this 30-year-old project. The project was initially intended to stabilize Oregon Inlet so that more commercial fishing could occur offshore. Once the fishing stocks collapsed, it was promoted as a safety measure for a dwindling population of commercial fishing boats. In the end, nothing could economically justify the $108 million project, which would erode Cape Hatteras National Seashore and the Pea Island Wildlife Refuge, while hurting the world-class fishery in Pamlico Sound.

Progress on Reforming the National Flood Insurance Program

In 2003, the House of Representatives made substantial progress on reforming the problems with the National Flood Insurance Program(NFIP) with the passage of H.R. 253, the "Flood Insurance Reform Act of 2003." This legislation, co-sponsored by Reps. Doug Bereuter (R-Neb.) and Earl Blumenauer (D-Ore.), will reduce repetitive flood claims by requiring owners of severe, repetitive loss properties to use federal assistance to either reduce flood damage risk or move their homes. Claims paid on repetitive loss properties cost taxpayers and the NFIP an estimated $200 million each year. This bill is a great step toward making NFIP more fiscally responsible. The Senate is now considering introducing a similar version of this legislation.

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1 Statement of Barry B. Anderson, Congressional Budget Office, *The Budget and Economic Outlook: Fiscal Years 2002-2011*, Jan. 31, 2001, *downloaded from* http://www.cbo.gov/showdoc.cfm?index=2728&sequence=0, March 29, 2004.

2 Congressional Budget Office, "The Budget and Economic Outlook: Fiscal Years 2005 to 2014," Jan. 26, 2004. In Table 1-3, CBO provides estimates of the effects of policies that are not included in its official estimates.

3 Committee for Economic Development, The Concord Coalition, and Center on Budget and Policy Priorities, *Mid-Term and Long-Term Deficit Projections*, on Sept. 29, 2003, *downloaded from* http://www.cbpp.org/9-29-03bud.pdf; The Brookings Institution, *The Budget Outlook: Updates and Implications.* William Gale & Peter Orszag, Feb. 16, 2004, *downloaded from* http://www.brook.edu/views/articles/gale/20040216.htm, March 10, 2004.

4 *Budget of the United States Government, Fiscal Year 2005*, 10, 2004.

5 For a more comprehensive list of all environmental laws that the Bush administration has weakened, please see http://nrdc.org/bushrecord.

6 See summary of studies, Wilson and Spengler, *Particles in Our Air: Concentrations and Health Effects*, 212, 1999; American Lung Association, *State of the Air 2003*, May 2003, *downloaded from* http://lungaction.org/reports/sota03_full.html, March 10, 2004.

7 United States Environmental Protection Agency, Office of Water. *National Water Quality Inventory: 2000 Report to Congress.* EPA-841-R-02-001, *downloaded from* http://www.epa.gov/305b/2000report/, March 10, 2004.

Delaware River Deepening Project

Off the Deep End **$175 million**

The nation currently faces record budget deficits and increasing water infrastructure needs. To date, the U.S. Army Corps of Engineers (Corps), the nation's largest water management agency, has served mainly as a purveyor of wasteful water resource projects. There are important water infrastructure needs, and Congress and the Bush administration must redirect the Corps into an accountable, modern, equitable agency that prioritizes spending taxpayer dollars responsibly. The current pork barrel process has led to a $58 billion construction backlog, a key indicator that the current system is completely broken.[1] The iron triangle of the Corps, special interests, and pork-hungry members of Congress has led to wasteful and environmentally harmful projects such as the Corps' proposal to deepen the Delaware River.

"Embarrassing."

— Chief of Engineers Lt. General Robert B. Flowers' reaction to the GAO report on the Delaware River deepening project while testifying before the Senate Committee on Environment and Public Works July 18, 2002.

Overview

The Corps has cooked the books at least three times to push forward a project to deepen the Delaware River's 106-mile main shipping channel from 40 to 45 feet. The General Accounting Office (GAO), an investigative arm of Congress, and independent economists have repeatedly questioned the merits of this project.[2] In fact, the project would force taxpayers to pay $27 million in minimum average annual costs while bringing in only $13.3 million in annual benefits.[3]

The Corps has maintained the Delaware River channel since the 1800s, and since World War II kept it at its current depth of 40 feet.[4] In 1983, Congress requested that the Corps consider deepening the channel.[5]

Since 1983, the Corps has spent millions of dollars studying the proposed deepening and issued a final feasibility report in 1992. The feasibility report declared the increase in depth to be environmentally sound, economically justified, and technically feasible. Congress followed this recommendation and authorized the project for construction in the Water Resources Development Act that same year. Soon after, the Corps entered into the Preconstruction, Engineering, and Design phase of the project and published a supplemental Environmental Impact Statement in 1997, issuing a final record of decision in December 1998.[6]

The project has since encountered several setbacks and delays. Scientists, economists, conservationists, taxpayer advocates, and the GAO have questioned the project's purported economic and environmental impacts. New Jersey and Delaware, two of the states that the Corps says will benefit, have raised concerns about the project's impacts. Unfortunately, project supporters in Congress continue to keep this project limping along.

Current Status

Congress continues to appropriate funding for the Delaware River deepening project despite questions raised by both the GAO and independent investigators regarding the benefit-to-cost ratio of the project. In his fiscal year 2004 budget, President Bush allocated only $300,000 for the Delaware River deepening project. Unfortunately, project proponents in the House of Representatives increased the funding to $8 million, an increase of 2600 percent. In July 2003, Reps. Andrews (D-N.J.), Castle (R-Del.), Blumenauer (D-Ore.), Chabot (R-Ohio), and Schiff (D-Calif.) offered an amendment to reduce this funding level back to the President's budget request. This amendment failed by a vote of 194 to 213.

The Senate, for its part, increased funding for the project to $10 million. The House and Senate gave the project $9 million in conference committee, the final amount signed into law by President Bush in 2003 as part of the energy and water appropriations package.

In his fiscal year 2005 budget, President Bush provided no money for the Delaware River deepening project. In March 2004, the Corps released a supplement to its 2002 Comprehensive Economic Reanalysis Report on the Delaware River Main Channel Deepening Project. In its latest attempts to justify this fiscally wasteful project, the Corps continues to ignore the fundamental flaws revealed time and again by independent analysis.

Green Scissors Proposal

Congress should halt all funding for this project and cancel the project. This would save federal taxpayers at least $175 million over the life of the project.

Taxpayer Concerns

Practically from its inception, the project has been overwhelmed with controversy regarding its economic impacts. The Corps has repeatedly and unconvincingly argued that the project is economically justified. Prior to the 2002 GAO analysis of the project, the Corps maintained that the project cost was $311 million.[7] After the GAO eviscerated the project analysis, finding "miscalculations, invalid assumptions, and outdated information,"[8] the Corps had to go back to the drawing board.

> "[T]his [project], frankly, is just a waste of money. This is something Congress should not be doing at this time in terms of putting additional money in it."
>
> *— Rep. Michael Castle (R-Del.) speaking on the floor of the House of Representatives, July 18, 2003.*

The GAO report concluded that the Corps seriously inflated project benefits. The GAO found that the Corps had exaggerated project benefits by 200 percent; the GAO consequently lowered the project's benefit-to-cost ratio to less than 0.5 to 1.0, representing an abysmal 50 cent return for every dollar spent.[9] To improve the benefit-to-cost ratio to one-to-one, the Corps had to increase project benefits and cut costs.[10] The Corps responded by shaving the total amount of dredging from 88 million cubic yards to 70 million cubic yards. The revised project weighed in at $286 million.[11] The Corps' latest reanalysis, released in March 2004, set the project cost at $264.6 million.[12] Federal taxpayers would pick up two-thirds of the cost, while the benefiting states and Delaware River Port Authority would be responsible for the remainder.

The Corps' analysis relies heavily on inaccurate assumptions. The Corps made inaccurate assumptions regarding reduced transportation costs for crude oil, importing and exporting cargo in containers, and bulk commodities like scrap metal, iron ore, and coal. The Corps initially predicted increased traffic in the channel more than 10 years ago, but these predictions never materialized. The project's economics center on reduced costs for six crude oil refineries along the river.[13] In order for the oil facilities to accommodate the larger ships, they would have to deepen their own private channels and berths. However, only one of the six facilities is on record saying that it supports and may take advantage of the project. Several oil refineries have stated that the current practice of off-loading oil onto smaller vessels in Delaware Bay and shipping it upriver is acceptable.[14]

The Corps' analysis depends on dubious assumptions. The Corps' analysis relies on tentative assumptions about oil shipments, underestimated costs of improving private channels and berths, and a historically low and inappropriately applied discount rate.[15] Discount rates are used to calculate how much future benefits and costs are worth today by lowering future values to reflect the time value of money.[16] The Corps has changed the discount rate of the project to help embellish the benefit-to-cost ratio of the project.[17] This contravened the Corps' own regulations, which require the use of the same discount rate throughout the life of a project.[18] Additionally, the rate the Corps used is historically low and does not account for either the risk associated with public works projects or the true time value of money.[19]

The Corps is required to find a place to dispose of project-related dredge materials. The Corps' economics also rely on securing two sites in southern New Jersey to dispose of the dredged spoils. The Corps has identified three potential sites in New Jersey for purchase, but New Jersey is now moving to buy one or more of those sites to prevent the Corps from using them for dredge spoil disposal.[20] If the Corps does not acquire the sites, the project cost could increase by at least $190 million because the Corps will be forced to dump the dredged material in Pennsylvania mines.[21]

Environmental Concerns

Dredging operations will cause significant quantities of smog-forming emissions.[22] Major portions of the Delaware River deepening project are in areas that are already designated as severe non-attainment for smog, while the rest of the project areas are in designated moderate non-attainment zones.[23] Nitrogen oxide emissions from dredging machines used in the project will only serve to exacerbate air quality problems.[24] The Corps has failed to mitigate these concerns. Tens of thousands of people go to America's emergency rooms annually as a result of smog exposure.[25] Children with asthma are particularly affected by smog, suffering higher levels of absenteeism at school and more hospitalizations.[26]

Dredging threatens local fish and wildlife populations. An estimated 26 million cubic yards of dredged material will be removed from the river during initial construction of the project.[27] The dredging threatens blue crabs, horseshoe crabs, and migrating shorebirds dependent upon them, as well as recovering oyster populations and endangered shortnose sturgeon. The largest population of horseshoe crabs in the world inhabits Delaware Bay.[28] Plans to dispose of main channel sand at Kelly Island, Port Mahon, and Broadkill Beach could adversely affect the spawning

grounds of these horseshoe crabs.[29] Migrating birds from South America, such as sandpipers, sanderlings, plovers, and red knots, rely primarily on these horseshoe crabs for gaining up to 50 percent of their body weight in fat.[30] These migratory birds are important both ecologically and as a significant draw for ecotourism.[31]

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[1] National Wildlife Federation and Taxpayers for Common Sense, *Crossroads: Congress, the Corps of Engineers and the Future of America's Water Resources, i*, March 2004.

[2] General Accounting Office, *Delaware River Deepening Project: Comprehensive Reanalysis Needed*, GAO-02-604, June 2002; Robert Stearns, *Strike Three...The Corps Fails Again to Justify the Delaware River Deepening*, Delaware Riverkeeper Network and National Wildlife Federation, July 14, 2003.

[3] GAO-02-604, at 10-11.

[4] U.S. Army Corps of Engineers, Philadelphia District, *Delaware River Main Channel Deepening Project*, *downloaded from* http://www.nap.usace.army.mil/cenap-pl/drmc.htm, March 1, 2004.

[5] *Ibid.*

[6] *Ibid.*

[7] *Ibid.*

[8] GAO-02-604, at 2.

[9] *Ibid.*

[10] *Ibid.*; *see also* note 1, at 57.

[11] *S*upra note 1, at 57; U.S. Army Corps of Engineers, *Fiscal Year 2004 Budget Justification Statement, Delaware River Main Channel, New Jersey, Pennsylvania and Delaware (continuing)*, 742; Philadelphia District, North Atlantic Division, U.S. Corps of Engineers, Delaware River Main Channel Deepening Project Comprehensive Economic Reanalysis Report, 21, Dec. 2002.

[12] U.S. Army Corps of Engineers, Philadelphia District, *Delaware River Main Channel Deepening Project (Pennsylvania, New Jersey, and Delaware) Supplement to Comprehensive Economic Reanalysis Report December 2002, Feb. 2004*

[13] *S*upra note 1, at 57.

[14] *S*upra note 1, at 57.

[15] *Strike Three...*, at 2.

[16] *S*upra note 1, at 18. For example, "$100 in your hand today is worth more than $100 fifty years from now. As the discount rate increases, the present value of future costs and benefits decreases. Because benefits occur further in the future as compared to most costs, the discount rate has a more profound effect on future benefits and can greatly distort the comparison of benefits and costs for long-term investments if it is not accurate." *Crossroads*, at 18.

[17] *Strike Three...*, at 17-19.

[18] *Letter from Taxpayers for Common Sense, National Wildlife Federation, and Delaware Riverkeeper Network to Lieutenant Colonel Thomas C. Chapman, Philadelphia Division, Army Corps of Engineers*, July 19, 2003 (on file with Taxpayers for Common Sense).

[19] *Ibid.*

[20] *Strike Three...*, at 13-15.

[21] Delaware Riverkeeper Network & National Wildlife Federation, *Delaware River Deepening Project: Outstanding Environmental and Community Issues*, 13-14, Aug. 9, 2002. (*Citing* Letter from Lt. Col. Debra Lewis, U.S. Army Corps of Engineers, Philadelphia District, to Congressman Robert E. Andrews (D-NJ) with attachment, *Proposed Scenario Placement of Dredged Material in Pennsylvania Strip Mines*, March 2, 2002; Delaware River Port Authority & U.S. Army Corps of Engineers, *Beneficial Use of Dredged Material Initiative*, (on file with National Wildlife Federation).

[22] *Delaware River Deepening Project: Outstanding Environmental and Community Issues*, at 33-35.

[23] *Ibid.*, at 33.

[24] *Ibid.*

[25] American Lung Association, *State of the Air 2003*, May 2003.

[26] Rob McConnell et al, Asthma in Exercising Children Exposed to Ozone: A Cohort Study, Lancet, 359, 386-391, Feb. 2, 2003.

[27] *S*upra note 4.

[28] *Delaware River Deepening Project: Outstanding Environmental and Community Issues*, at 4-6.

[29] *Ibid.*, at 18.

[30] *Ibid.*, at 4-5.

[31] *Ibid.*, at 5-6.

Market Access Program

A Free Lunch **$550 million**

Since the Great Depression, the U.S. government has utilized a variety of taxpayer-funded mechanisms to support American agricultural production, including price supports, loans, and direct subsidies. The Market Access Program (MAP), which funds large agricultural trade associations to promote their products overseas, is a prime example of a federal program that uses taxpayer dollars to indirectly subsidize large agribusiness without providing any public benefits.

> "If we are going to balance the budget..., we must make some tough decisions. Cutting the Market Promotion Program is not one of them. This is easy. There is no way that this program can be justified."
>
> *—Rep. Frank Lobiondo (R-N.J.) speaking on the floor of the House of Representatives, July 21, 1995.*

Overview

The Market Access Program is administered by the Foreign Agriculture Service of the U.S. Department of Agriculture (USDA) and is allocated through the Commodity Credit Corporation. MAP began in 1985 under the title of Targeted Export Assistance (TEA). TEA was designed to counteract adverse and unfair trading practices by foreign governments by providing subsidies for U.S. export promotions in foreign markets.[1] The program was restricted to state or regional trade associations, cooperatives, or companies experiencing this discrimination.[2]

In 1990, Congress renamed TEA the Market Promotion Program (MPP) and changed the program significantly by removing the discrimination restriction and opening the program to the broader agricultural and food industries.[3] Instead of merely combatting unfair trade practices, the purpose of MPP was to expand and develop U.S. agricultural exports at an annual budget of $200 million. In effect, promoting U.S. products overseas became the essential goal, and large multinational corporations such as McDonald's, Nabisco, and Campbell Soup Co. were taking advantage of these government handouts.

In 1993, the General Accounting Office (GAO) released a report that questioned the effectiveness of the program. The report stated, "USDA cannot be sure that in the absence of this program, participants would not have funded these activities by themselves."[4] In response to these concerns, Congress enacted legislative reforms in 1993 that, among other things, directed the Foreign Agricultural Service to (1) give small business priority when funding MPP promotion of brand-name products; (2) limit the amount of time MPP funds can be used to promote brand-name products in a single market to five years; and (3) ensure that any federal funds received supplement, not supplant, a company's expenditures.[5]

However, the program continued to be mired in criticisms that it simply benefited large corporations. In 1995, MPP gave $730,000 to Welch Foods, the fruit juice company; $42,000 to Pepperidge Farms; and $308,000 to Ocean Spray Cranberries, Inc.[6] Additionally, the Foreign Agricultural Service never enforced the time limits for cooperatives, thereby allowing large corporations that are members of the cooperatives to benefit from these subsidies year after year.[7]

In 1996, the program was reauthorized as a part of the Farm Bill and renamed for a second time, now as the Market Access Program (MAP).[8] The 1996 legislation also capped annual funding for MAP at $90 million for fiscal years 1996 to 2002.

MAP continues to use taxpayer dollars to help companies and trade associations with their trade services, technical assistance, market research and development, and consumer advertising. Generic product promotion requires an association to provide 10 percent matching funds.[9] These promotions have ranged from advertising U.S. sunflower kernels at German trade shows, to demonstrations and conferences for U.S. forest products, to a grocery store display in Canada and Mexico promoting the quality of California grown kiwis.[10] If a company wishes to utilize branded produce promotion, it is required to provide 50 percent matching funds.[11]

Current Status

Almost since the program's inception, members of Congress have sought to cut or at least reform MAP. Although the program underwent various reforms both in 1993 and in 1996, Rep. Chabot (R-Ohio) introduced H.R. 972 in 1997 to eliminate MAP completely. The bill had 37 co-sponsors including Reps. Schumer (D-N.Y.), Portman (R-Ohio), Royce (R-Calif.), Taylor (D-Miss.), Myrick (R-N.C.), Shays (R-Conn.), Doyle (D-Penn.), Shadegg (R-Ariz.), Rohrabacher (R-Calif.), and Kleczka (D-Wis.). The bill was referred to the Subcommittee on Department Operations,

Nutrition and Foreign Agriculture of the House Agriculture Committee, but was never called for a vote.

The 2002 Farm Bill included provisions to restore funding to the original $200 million a year by 2006. In fiscal year 2003, MAP cost federal taxpayers $110 million. President Bush's fiscal year 2005 Budget requested $125 million for the program.[12]

Green Scissors Proposal

Cancel the MAP program. At current funding levels, this would save taxpayers $550 million over five years.

Taxpayer Concerns

MAP is pure corporate welfare. Between 1993 and 2003, the federal government provided more than $1 billion to large trade associations to help them market their own products overseas.[13] These subsidies end up benefiting the giant corporations that are members of these trade associations. As Rep. Charles Bass (R-N.H.) stated, "It's one thing to provide temporary welfare assistance to help people get back on their feet, but to give millions of dollars in subsidies to successful corporations is completely absurd."[14]

MAP continues to subsidize some of the largest and wealthiest trade associations in the United States. In fiscal year 2003, the program provided $2.7 million to the U.S. Poultry and Egg Export Council, of which both Perdue Farms and Tyson Foods are members; $3.5 million to the U.S. Grains Council, which includes Archer Daniels Midland, Coors Brewing Company, and Dow AgroSciences, among other powerful corporations; and $5.9 million to the American Forest and Paper Association, which includes such members as Weyerhaeuser. (See table on page nine.)

MAP has a history of benefiting giant multinationals. Over the years, the list of beneficiaries has included the Pillsbury doughboy, the California dancing raisins, M&M Mars, and Fruit of the Loom underwear. Other major corporations that have benefited from the program during its almost 20-year history include RJR Nabisco, Burger King, Ocean Spray Cranberries Inc., Joseph Seagram & Sons, and Welch's Food Inc., as well as Fortune 500 companies such as McDonald's, Campbell Soup Co., Hershey's, Tootsie Roll Industries, Heinz USA, and General Mills.[15]

MAP provides little public benefit and has a history of mismanagement. According to 1999 GAO report, there is no proof that MAP expenditures have increased exports.[16] There is no indication that in the absence of MAP corporations would not be able to fund their own overseas promotions. Additionally, the program has funded several campaigns that have been a ridiculous waste of taxpayer dollars. For example, in 1989 the California Raisin Board spent $3 million of MAP money to run its famous dancing raisin ads in the Far East. The problem was that the ads ran in English, and the baffled Japanese and Hong Kong audiences did not get the joke when the cartoon raisins started singing Marvin Gaye's "I Heard It Through the Grapevine." The Japanese and Chinese thought they were watching dancing potatoes.[17]

State by State Allocation of MAP Funds from 1993-2002

	TOTAL 1993-2002 ($)
ALASKA	32,598,989
ARIZONA	89,364
CALIFORNIA	222,860,750
COLORADO	104,068,380
DISTRICT OF COLUMBIA	206,823,376
FLORIDA	43,736,937
GEORGIA	32,109,906
HAWAII	304,635
IDAHO	4,774,461
ILLINOIS	44,746,600
KENTUCKY	3,268,999
LOUISIANA	30,684,364
MAINE	44,000
MASSACHUSETTS	6,116,285
MICHIGAN	1,881,237
MINNESOTA	2,478,526
MISSISSIPPI	2,230,419
MISSOURI	28,186,592
MONTANA	1,916,458
NEW JERSEY	118,000
NEW YORK	1,520,892
NORTH DAKOTA	9,147,843
OREGON	8,783,218
PENNSYLVANIA	29,415,812
RHODE ISLAND	3,252,791
TEXAS	30,027,094
VIRGINIA	46,434,359
WASHINGTON	98,020,897
WISCONSIN	1,018,995
Total	**996,660,179**

Consolidated Federal Funds Report: Fiscal Year 1993-2002, Market Access Program www.census.gov/govs/www/cffr.html

Environmental Concerns

MAP helps large agribusiness instead of small farmers. Over the past 20 years, family farms have become increasingly scarce, as large commercial farms have taken over a larger share of the market. Now less than eight percent of farms account for 72 percent of the sales.[18] Programs such as MAP provide an additional advantage to large trade associations, and many of the commercial operations they represent, placing even more pressure on small-scale farmers. As Sen. John McCain (R-Ariz.) highlighted, "the top 10 percent of big farmers and agribusiness consume about 80 percent of farm benefits, leaving small farmers out in the cold."[19]

MAP supports environmentally destructive farm practices. Several of the large trade associations and their large corporate members that have benefited from these federal subsidies undertake environmentally harmful forms of agriculture, from growing bioengineered crops to logging in our national forests to operating factory farms that generate large amounts of animal waste. According to the Foreign Agricultural Service, MAP funding is used to fund seminars and workshops to educate overseas customers about agricultural biotechnology and food safety.[20]

Market Access Program Allocations Fiscal Year 2003	
Participant	**Allocation**
Alaska Seafood Marketing Institute	$2,721,428
American Forest & Paper Association	$5,979,825
American Peanut Council	$1,185,877
American Seafood Institute	$750,515
American Seed Trade Association/Oregon Seed Council	$354,451
American Sheep Industry Association	$276,916
American Soybean Association	$3,431,438
Blue Diamond Growers/Almond Board of California	$1,214,877
California Agricultural Export Council	$618,066
California Asparagus Commission	$244,922
California Cling Peach Growers Advisory Board	$316,958
California Kiwifruit Commission	$132,747
California Pistachio Commission	$771,698
California Prune Board	$2,184,878
California Strawberry Commission	$552,809
California Table Grape Commission	$2,253,608
California Tomato Commission/Florida Tomato Committee	$614,285
California Tree Fruit Agreement	$1,150,782
California Walnut Commission	$2,812,106
Cherry Marketing Institute	$122,265
Chocolate Manufacturers Association	$989,423
Cotton Council International	$8,406,098
Cranberry Marketing Committee	$736,959
Florida Department of Citrus	$3,998,895
Food Export USA Northeast	$4,366,864
Ginseng Board of Wisconsin	$28,559
Hawaii Papaya Industry Association	$61,105
Hop Growers of America	$87,081
Intertribal Agriculture Council	$444,794
Mid-America International Agri-Trade Council	$6,056,818
Mohair Council of America	$36,859
National Association of State Departments of Agriculture	$1,576,035
National Dry Bean Council	$549,192
National Honey Board	$130,533
National Potato Promotion Board	$2,331,169
National Renderers Association	$337,183
National Sunflower Association	$868,864
National Watermelon Promotion Board	$134,665
New York Wine and Grape Foundation	$170,759
North American Export Grain Association	$75,226
Northwest Wine Promotion Coalition	$438,114
Organic Trade Association	$73,573
Pear Bureau Northwest	$1,398,786
Pet Food Institute	$864,327
Raisin Administrative Committee	$1,835,893
Southern United States Trade Association	$4,644,176
Sunkist Growers, Inc	$1,775,869
Texas Produce Export Association	$72,053
The Catfish Institute	$303,268
The Popcorn Board	$250,835
U.S. Apple Association	$497,763
U.S. Dairy Export Council	$2,161,513
U.S. Grains Council	$3,536,255
U.S. Highbush Blueberry Council	$106,331
U.S. Livestock Genetics Export, Inc.	$754,338
U.S. Meat Export Federation	$10,138,190
U.S. Wheat Associates	$2,458,897
USA Dry Pea and Lentil Council	$478,213
USA Poultry and Egg Export Council	$2,709,601
USA Rice Federation/U.S. Rice Producers Association	$2,620,887
WA State Fruit Commission/CA Cherry Advisory Board	$801,734
Washington Apple Commission	$1,814,050
Welch's Food	$535,458
Western United States Agricultural Trade Association	$6,643,513
Wine Institute	$3,758,831
Reserve	$250,000
TOTAL	**$110,000,000**

Source: USDA, Foreign Agricultural Services

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1 General Accounting Office, *Agricultural Trade: Changes Made to Market Access Program, but Questions Remain on Economic Impact*, GAO/NSIAD-99-38, April 1999.

2 General Accounting Office, *International Trade: Effectiveness of Market Promotion Program Remain Unclear*, GAO/GGD-93-103, June 1993.

3 *Ibid*.

4 *Ibid*.

5 *Supra* note 1.

6 Stephen Moore, "Litmus Test for Corporate Pork," Cato Institute, Aug. 4, 1998.

7 *Supra* note 1

8 *Supra* note 1.

9 Federal Agricultural Service, *Market Access Program*, *downloaded from* www.fas.usda.gov/mos/programs/mapprog.html, March 7, 2004.

10 National Sustainable Agriculture Information Service, *Market Access Program*, *downloaded from* attra.ncat.org/guide/map.htm, March 7, 2004.

11 *Supra* note 9. Small businesses are still able to use MAP funding for brand promotion.

12 *Budget of the United States Government, Fiscal Year 2005, Appendix,* 114, 2004.

13 Based on Consolidated Federal Funds Report: Fiscal Year 1993-2002 and 2003 Allocations. Market Access Program *downloaded from* www.census.gov/govs/www/cffr.html, March 10, 2004.

14 U.S. Representative Charles Bass (N.H.), *Bass Blasts Corporate Welfare: Attacks Market Access and Subsidy Programs* (press release), July 24, 1997.

15 Dean Stansel, *CATO Congressional Testimony: Federal Export Promotion Programs*, CATO Institute, May 23, 1995; *Supra* note 6.

16 *Supra* note 1.

17 *Supra* note 6.

18 Anuradha Mittal, "Giving Away the Farm: The 2002 Farm Bill." *Backgrounder*, Summer 2002, v.8, n.3.

19 U.S. Senator John McCain, *McCain: Farm Bill 'Appalling Breach' of Federal Spending Responsibility* (press release), May 7, 2002.

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Section 29 Tax Break

Drilling a Hole in the Treasury **$2.8 billion**

Since 1916, the federal government has offered special tax breaks for the production of fossil fuels. Currently, oil and gas industries in the United States receive numerous tax breaks to spur production.[1] Over the next five years, the U.S. tax code will provide more than $10 billion in direct tax breaks for the oil and gas industries.[2] Of the tax breaks for oil and gas, the Section 29 tax credit for nonconventional fuels has been particularly prone to fraud and abuse.

Overview

In 1980, Congress established the production tax credit in Section 29 of the Internal Revenue Code for companies producing fuels from nonconventional sources. Created as part of the Crude Oil Windfall Profit Tax Act of 1980, proponents of the Section 29 credit argued it would increase development of alternative domestic energy sources at a time when concerns over oil import dependence and national security were high. Section 29 applies to fuels such as oil produced from shale or tar sands; synthetic fuels (synfuels) produced from coal; gas produced from pressurized brine; Devonian shale; tight formations; biomass; and coalbed methane, all of which were deemed "uneconomical" for conventional production.[3]

Section 29 grants a $3 per barrel or $.50 per thousand cubic feet tax credit on oil and gas resources considered "uneconomical" for commercial development. The production credit began at $3 per barrel of oil equivalent and was designed to phase-out as oil prices rose from $23.50 to $29.50 per barrel. This was a protection mechanism inserted in the legislation to ensure that taxpayers would not be subsidizing profitable industries during times of high oil prices. However, both the credit and the phase-out range were tied to inflation. Currently, the credit is more than $6 per barrel of liquid fuels and more than $1 per thousand cubic feet for gaseous fuels, and oil prices must reach between $47 to $60 per barrel for the phase-out to occur.[4] By comparison, in March 2004 oil prices hit a 13-year high of $38.18 a barrel; the average price of oil in 2003 was $31 barrel, the highest in 20 years.[5] In spite of these record highs, producers have always been able to claim the credit. According to the Joint Committee on Taxation, the credit will cost $2.8 billion over the next five years.[6]

Originally, companies seeking to benefit from the Section 29 tax credit were required to have wells in service by Dec. 31, 1989.[7] Subsequently, Congress extended the deadline in three separate pieces of legislation.[8] As currently written, the tax credit for most unconventional fuels expired Dec. 31, 2002 for wells that were placed in service by Dec. 31, 1992.[9] The credit for biomass and synthetic fuels from coal expires Dec. 31, 2007, provided the facility was placed in service before July 1, 1998.

The primary beneficiaries of the tax credit have been companies drilling for coalbed methane or producing synthetic fuels from coal. Coalbed methane is a type of natural gas trapped underground between the porous surfaces of a coal seam and groundwater. Producing synthetic fuels involves a process that transforms ordinary coal into a substance that would purportedly do less damage to the environment.

Current Status

In 2003, the House of Representatives and Senate passed energy bills (H.R. 6) that would renew the Section 29 tax credit for nonconventional fuels, creating more than $2.9 billion and $1.8 billion, respectively, in tax breaks.[10] The final conference report for H.R. 6 contained a renewal of the Section 29 tax credit that would cost more than $3 billion.[11] A revised version of the energy bill is still pending in the Senate. In May 2003, Sen. Don Nickles (R-Okla.) offered an amendment in the Senate Finance Committee on S. 1149, an energy tax bill, to eliminate the Section 29 tax credit. Unfortunately, this amendment did not pass.

In July 2003, the Internal Revenue Service (IRS) began investigating corporations claiming the Section 29 tax credit for synthetic fuels. The investigation was spurred by reports that producers were simply spraying coal with latex to claim the credit. The IRS was determining if this process was causing "significant chemical change.," which is required to claim the credit.[12] In Nov. 2003, the IRS ended the investigation, determining that test procedures were scientifically valid, but undermined its own decision by stating that the original IRS standards "do not produce the level of chemical change required by Section 29 (c)(1)(C)."[13] The Senate Governmental Affairs Permanent Subcommittee on Investigations, chaired by Sen. Norm Coleman (R-Minn.), continues to investigate the use of Section 29 tax credits for synthetic fuels.

Green Scissors Proposal

Eliminate the Section 29 tax credit, which will save taxpayers $2.8 billion over the next five years.[14]

Taxpayer Concerns

The Section 29 tax credit is a corporate tax haven. During the 1990s, the Section 29 tax credit became a tax shelter for corporations that had high taxable earnings. In a well documented case, Meridian, a subsidiary of Burlington Resources, sold its wells that qualified for Section 29 because it could not claim the credit. AT&T bought the wells and the right to claim the Section 29 credits and then leased the wells back to Meridian. The deal allowed Meridian to keep the gas production, while allowing AT&T to utilize the tax credit to lower its income tax liability.[15]

> "We're really not generating the benefits that the law [Section 29] intended."
>
> *— Jim L. Thompson, manager of the trade publications Coal and Energy Price Report and U.S. Coal Review quoted in the July 5, 2003 issue of the New York Times.*

The Section 29 tax credit has clearly proven ineffective in reducing our reliance on foreign oil. According to the Congressional Research Service, "Virtually all of the added gas output [coalbed methane] has substituted for domestic conventional natural gas rather than imported petroleum, meaning that the credit has basically not achieved its underlying energy policy objective of enhancing energy security."[16]

The Section 29 tax credit doubles the value of burning dirty coal. The value of ordinary coal ranges from $21 to $24 per ton. If producers convert the coal to synthetic fuel, they can also claim the Section 29 tax credit, which is worth approximately $26 per ton of coal. The Section 29 credit essentially doubles coal companies' profits at the expense of taxpayers.

There is little difference in the way that coal-based synthetic fuel and ordinary coal burns. Companies qualifying for the Section 29 tax credit are reportedly using processes such as spraying coal with latex, asphalt derivatives, and pine-tar resin to claim the credit.[17] Another method includes combining coal dust with binding agents and squeezing the mixture into pellets or briquettes. These so-called "chemical" changes were suspect enough to cause the IRS to investigate last year.

Despite the expiration of the Section 29 tax credit in December 2003, coalbed methane companies are continuing to drill more wells. According to Public Citizen, more than 10,000 wells were drilled between 1993 and 2001 in the Powder River Basin in Wyoming and Montana without the benefit of the Section 29 tax credit.[18] In fact, Mark Sexton, CEO of Evergreen Resources, Inc., said that while the coalbed methane industry was initially spurred by the tax credit, "Evergreen and others have proven that the process stands on its own economically without the tax credit."[19] Similarly, Joe Brower, the president of Bear Production, said that the "economics are good enough to continue drilling without the tax credits."[20]

Environmental Concerns

Coalbed methane operators discharge enormous amounts of highly saline water. In 2000, more than 1.28 million barrels of water were pumped each day in the Powder River Basin.[21] This massive release of water causes soil erosion, stream sedimentation, vegetation loss, and water pollution. Discharged water also depletes local aquifers and water tables, causing landowners' wells to run dry. With recent projections of more than 65,000 new wells in the Powder River Basin in Montana and Wyoming, operators could pump out and discharge 1 billion gallons of groundwater each day for the life of the new wells.[22]

The infrastructure associated with coalbed methane drilling harms wildlife habitat. Access roads, drill pads, pipelines, power lines, transmission stations, compressors, and increased traffic that accompany coalbed methane development can destroy wildlife habitat and disrupt home range, winter range, and migration routes. According to the Northern Plains Resources Council, state and federal agencies in Montana estimate that each coalbed methane well disturbs three to four acres of land and requires the construction of a quarter to a third of a mile of roads.[23] With up to 39,000 wells predicted in Montana over the next 10 years, methane production could disturb tens of thousands of acres of critical wildlife habitat.[24]

The environmental benefits from synthetic coal remain dubious. Burning coal for energy significantly contributes to acid rain, air pollution, and the emission of carbon dioxide, the main global warming pollutant. Burning coal is responsible for more than 60 percent of soot-creating sulfur dioxide emissions in the United States and is also a major source of smog-forming nitrogen oxide pollution and mercury contamination.[25] Concerns remain that synthetic coal has similar environmental and public health impacts.

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1. United States Code Title 26 Sections 29, 263(c), 291, 611-613,616-617,57(2), 1254.
2. Based on Friends of the Earth analysis of energy and natural resource tax breaks identified by the Joint Committee on Taxation, *Estimation of Federal Tax Expenditures for Fiscal Year 2004-2008*, JCS-8-03, Dec. 22, 2003.
3. 26 U.S.C. 29.
4. United States Senate Committee on the Budget, *Tax Expenditures: Compendium of Background Material on Individual Provisions*, S.Prt. 107-80, prepared by the Congressional Research Service, 75-79, Dec. 2002.
5. Patrice Hill, "Oil Prices to 13-Year High, Threaten Economy," *The Washington Times, downloaded from* at www.washtimes.com/business/20040317-114357-9969r.htm, March 29, 2004.
6. *Supra* note 2.

[7] *Supra* note 4.

[8] *Ibid.*

[9] The credit for production of oil produced from shale and tar sands, and gas produced from geopressured brine, Devonian shale, coal seams, or a tight formation, expired on Jan. 1, 2003. The credit for biomass and liquid, gaseous, or solid synthetic fuels produced from coal will receive the credit until Jan. 1, 2008.

[10] Joint Committee on Taxation, *Comparison Of The Estimated Budget Effects Of Division D Of H.R. 6, The "Energy Tax Policy Act Of 2003," As Passed By The House Of Representatives And S. 1149, The "Energy Tax Incentives Act Of 2003," As Reported By The Committee On Finance And Modified By Proposed Senate Amendment No. 1431*, JCX-81-03, Sept. 22, 2003.

[11] Joint Committee on Taxation, *Estimated Budget Effects of the Conference Agreement for the"Energy Tax Policy Act of 2003*," JCX-101-03, Nov. 21, 2003.

[12] Internal Revenue Service Bulletin: 2003-30, *Announcement 2003-46*, July 28, 2003.

[13] Internal Revenue Service Bulletin: 2003-46, *Announcement 2003-70*, Nov. 17, 2003.

[14] Joint Committee on Taxation, *Estimation of Federal Tax Expenditures for Fiscal Year 2004-2008*, JCS-8-03, Dec. 22, 2003.

[15] Lynn Gardner, "Natural gas tax credit prompts intense lobbying; Section 29 tax credit," *The Oil Daily,* Aug. 14, 1992.

[16] *Supra* note 4.

[17] Lynnley Browning. "I.R.S. Inquiry Create Anxiety in Synthetic-Fuel Industry." *New York Times*. July 5, 2003.

[18] Public Citizen, "Drilling for tax credits: Runaway coalbed methane development doesn't need a tax break," *downloaded from* www.citizen.org/documents/coalbedfactsheet.pdf, on March 13, 2004.

[19] John O'Hanlon, "Coalbed methane development: In the Raton Basin," *Wall Street Corporate Reporter*, v.3, iss.42, 14-20, Dec. 1998.

[20] Kathy Shirley, "'Weekend Work' Yields Gas Field," *Explorer*, March 2000.

[21] C.A. Rice, M.S. Ellis, and J.H. Bullock, Jr., "Water co-produced with coalbed methane in the Powder River Basin, Wyoming: preliminary compositional data" USGS Open File Report 00-372 2000.

[22] Gary Bryner. *Coalbed Methane Development in the Intermountain West: Primer,* Natural Resources Law Center, University of Colorado School of Law, July 2002.

[23] Northern Plains Resources Council, *Documentation for Doing it Right: a blueprint for responsible coalbed methane development in Montana*, Oct. 2001, *downloaded from* http://www.nprcmt.org/pdf/documentation.pdf, March 29, 2004.

[24] Northern Plains Resources Council, *Doing it Right: a blueprint for responsible coalbed methane development in Montana*, Oct. 2001

[25] Brandon Wu, *Lethal Legacy: A Comprehensive Look at America's Dirtiest Power Plants*, U.S. Public Interest Research Group, Oct. 2003, *downloaded from* http://www.uspirg.org/reports/lethallegacy2003/lethallegacy2003.pdf, March 29, 2004.

SUV Tax Loophole

A Hummer of a Deal **$1.26 billion**

One reason the U.S. government provides tax credits is to promote consumer behavior that benefits the greater good. While not many would argue with a tax credit that enables teachers to recover the costs of school supplies they buy for their classes, some tax credits fail to help us meet our national priorities. The tax break that allows small business owners to deduct the entire purchase price of a sport utility vehicle (SUV) is one of the most glaring examples of a good idea going in the wrong direction.

> "The government is sort of subsidizing people for buying these land yachts."
>
> *— Henry Pierman, a certified public accountant with Hauser & Associates in Bellevue, Washington, Jan. 17, 2003, as quoted in the article by Brad Wong, "It's not just a Hummer, it's a tax break," Seattle Post Intelligence.*

Overview

Within the federal tax code, certain provisions allow small businesses to deduct a portion of their business investments from their taxes. To provide construction workers and farmers with additional tax incentives, the tax code treats light trucks differently from the purchase of passenger vehicles. The federal tax code, however, also treats an SUV as a light truck, thereby allowing all small businesses, including lawyers and doctors, to use this loophole to purchase luxury SUVs at the expense of federal taxpayers.

Historically, the government has capped and set a depreciation schedule for the amount a business can deduct for the purchase of an automobile. The Internal Revenue Code (IRC) has differentiated between vehicles less than 6,000 pounds from heavier trucks and vans, allowing the heavier vehicles accelerated depreciation schedules under Section 179.[1] Section 179 sets a schedule for the amount that businesses can expense in any given year.[2] For 2003, Congress set the one-year deduction level at $25,000.[3]

Originally, the tax credit for vehicles over 6,000 pounds gross loaded weight[4] was designed to apply to light trucks and vans used by farmers and businesses that need these vehicles to do their work (i.e. construction companies). The provision also distinguished light trucks from luxury vehicles, thereby allowing these small businesses to avoid the luxury-tax surcharge.[5] However, when this provision was added to the tax code, luxury passenger SUVs were not the market force they have become.

The SUV market has outgrown the original intent of this accelerated depreciation provision. Currently, there are at least 55 different luxury passenger SUVs, vans, and light trucks, including the Lincoln Navigator, Cadillac Escalade, and the new Hummer H2, which weigh more than 6,000 pounds and therefore qualify for this large deduction.

Current Status

In its fiscal year 2003 budget, the Bush administration requested an increase for the annual small business expensing cap to $75,000. With the passage of the Jobs and Growth Tax Relief Reconciliation Act of 2003, signed into law in May 2003, Congress went one step further and increased this cap from the 2003 level of $25,000 to $100,000 a year.[6] By raising the cap on tax deductions for heavy equipment to $100,000, the law offers purchasers of large, luxury SUV passenger vehicles a much larger tax break than that received by purchasers of most other vehicles.

In the March 2002 economic stimulus package, Congress created an additional 30 percent bonus deduction that small businesses can utilize in the first year, in addition to the yearly expensing amount and the set five-year depreciation.[7] This law also increased the amount a business can deduct for a vehicle under 6,000 pounds from $3,060 in the first year to $7,660.

The Jobs and Growth Tax Relief Reconciliation Act of 2003 also increased the 30 percent bonus depreciation to 50 percent. This means that in addition to the $100,000 deduction, small businesses can immediately deduct 50 percent of the remaining cost of the vehicle, plus the set five-year depreciation, all in the first year. Under current law, any luxury SUV priced under $100,000 is completely deductible in the first year. In the first year a business can deduct $103,150 from the cost of a $105,250 Hummer HI, while a $55,000 Hummer H2 is now entirely deductible in the first year. (See tables on page 14.)

Congress has attempted to close or reduce this loophole several times over the last year. In 2003, Sen. Barbara Boxer (D-Calif.) introduced legislation in the Senate to close the loophole. Congresswoman Anna Eshoo (D-Calif.), along with 30 cosponsors, introduced similar legislation in the House of Representatives. Additionally, several senators, including Sen. Don Nickles (R-Okla.), have attempted to lower the deduction from $100,000 to

$25,000. Most recently, this provision was included in the Senate-version of the transportation bill (S. 1072).

Green Scissors Proposal

Congress should close the loophole so that passenger vehicles heavier than 6,000 pounds receive the same deduction as vehicles that weigh less than 6,000 pounds. The tax code should distinguish between passenger SUVs over 6,000 pounds and industrial vehicles, and place passenger SUVs under the normal depreciation schedule for businesses under Section 280F of the Internal Revenue Code. The Internal Revenue Service (IRS) should redefine "passenger vehicle" and "work vehicle." Currently, a passenger vehicle is defined as any four-wheeled automobile that is designed primarily for use on public streets, roads and highways and weighs less than 6,000 pounds.[8] Closing the loophole would save taxpayers $1.26 billion over 10 years.[9]

Taxpayer Concerns

Clearly, this tax break started out with good intentions, but is now a good idea gone wrong. The original intent of helping family farmers and businesses who need this equipment to do their work should be maintained. Currently, the loophole makes the purchase of heavy SUVs extremely lucrative for any small business owner, whether or not the vehicle is necessary in their work. This makes the purchase of at least 55 large SUVs, passenger vans, and trucks — all priced under $100,000 — completely deductible in the first year.

In a time of skyrocketing deficits, this tax break is bad for federal taxpayers. With predictions of a $521 billion deficit in 2004 alone, this plan will likely cost the federal government more than $1.26 billion in lost revenue over 10 years. Assuming that the average small business SUV buyer is in the 35 percent income bracket, and that the average SUV costs $50,000 (all of which is now deductible), this will cost the treasury an estimated $17,500 per taxpayer who takes this deduction.

This loophole raises questions of fundamental fairness and equity. This tax break has encouraged people from all lines of work, including real-estate agents, lawyers, consultants, and many others, to purchase a large, luxury SUV instead of a luxury automobile, since it is not eligible for the same deductions.

Environmental Concerns

Cars and trucks remain a leading source of air pollution. Nearly half of all Americans, approximately 137 million people, live in communities where the air is literally unsafe to breathe due to unhealthy levels of smog.[10] Cars and trucks produce nitrogen oxides (NOx) and volatile organic compounds (VOCs) that react together to form a key component of smog. VOCs are a precursor to ground-level ozone pollution that contributes to health problems such as breathing difficulty, lung damage, and reduced cardiovascular functioning.[11] On-road mobile sources, including cars, trucks, and buses, were responsible for 29 percent of all VOC emissions and 34 percent of all NOx emissions in 1999.[12] The deadliest air pollutant is particulate matter (PM) or "soot," which contributes to tens of thousands of premature deaths each year, as well as asthma attacks and lung cancer. On-road mobile sources were responsible for 10 percent of all fine PM emissions in 1999.[13] Tailpipe emissions account for a substantially higher portion of PM in urban areas, where the majority of mobile source emissions occur, such as nearly 40 percent of fine PM in Denver and Los Angeles.[14]

SUVs remain a leading source of global warming pollution. Burning dirty fossil fuels to power vehicles releases heat-trapping global warming pollution into the atmosphere, which alters the climate of the planet and throws weather systems out of balance. SUVs and other vehicles remain a leading source of global warming pollution. U.S. cars and light trucks alone produce more global warming pollution than all but three other countries worldwide.[15] Because SUVs are more inefficient than cars, they contribute a disproportionate percentage of global warming pollution.

Transportation accounts for two-thirds of petroleum used in the United States. Corporate Average Fuel

Manufacturer's Suggested Retail Price Hummer H1 ($105,250)		
	Economic Stimulus Package 2002	**Jobs and Growth Act 2003**
Capital Equipment	$25,000	$100,000
Bonus Deduction on Remaining Cost	$24,075 (30%)	$2625 (50%)
Base First Year Depreciation	$11,235	$525
Total First Year Deduction	**$60,310**	**$103,150**

Manufacturer's Suggested Retail Price Saturn L300 ($21,250)		
	Economic Stimulus Package 2002	**Jobs and Growth Act 2003**
Capital Equipment	$0	$0
Bonus Deduction	$0	$0
Base First Year Depreciation	$7660	$10,710
Total First Year Deduction	**$7660**	**$10,710**

Current Law Comparison of Deductions		
Base Price	**Saturn L300 ($21,250)**	**Hummer H1 ($105,250)**
Capital Equipment	$0	$100,000
Bonus Deduction	$0	$2625 (50%)
Base First Year Depreciation	$10,710	$525
Total First Year Deduction	**$10,710**	**$103,150**

Economy standards (CAFE) enacted in 1975 doubled auto fuel efficiency and saved the United States 2.8 million barrels of oil per day. When fuel efficiency standards were originally implemented, light trucks were allowed to get fewer miles to the gallon because they constituted only 20 percent of the vehicle market and were used primarily as work vehicles.[16] Today, light trucks comprise nearly 50 percent of the new vehicle market and are primarily used as passenger cars.[17] Light trucks guzzle 30 percent more fuel than the average car.[18] This leads to increased oil consumption, increased global warming pollution, and increased costs to consumers at the gas pump.

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1 26 U.S.C. 179; 26 U.S.C. 280F.

2 26 U.S.C. 179.

3 *Ibid.* The annual expensing amount has increased over time. IRC 179 set this amount at $18,000 for 1997, $18,500 for 1998, $19,000 for 2000, $24,000 for 2001, $24,000 for 2002, $25,000 for 2003.

4 The 6000 pound gross loaded weight delineation includes not just the weight of the vehicle itself, but its carrying capacity when it is fully loaded.

5 The luxury excise tax on passenger automobiles expired on Dec. 31, 2002. It has not been reinstated yet.

6 This expensing allowance increase applies to taxable years beginning after 2002 and ending before 2006.

7 This 30 percent bonus is available for businesses from Sept. 11, 2001 until Sept. 10, 2004.

9 Letter from Mary M. Schmitt, Acting Chief of Staff of the Joint Committee on Taxation, to Senator Barbara Boxer, scoring S. 265, the “SUV Business Tax Loophole Closure Act,” March 20, 2003 (on file with Taxpayers for Common Sense).

10 American Lung Association, *State of the Air 2003*, May 2003.

11 U.S. EPA, Office of Transportation and Air Quality, *downloaded from* www.epa.gov/otaq/invntory/overview/pollutants/hydrocarbons.htm, Dec. 8, 2003; U.S. EPA, Office of Transportation and Air Quality, *downloaded from* www.epa.gov/otaq/invntory/overview/pollutants/nox.htm, Dec. 8, 2003.

12 *Ibid.*

13 *Ibid.*

14 Transportation Research Board, National Research Council, *The Congestion Mitigation and Air Quality Improvement Program: Assessing 10 Years of Experience*, 2002, Special Report #264.

15 Sierra Club, *The SUV Threat-Driving Up the Heat-SUVs and Global Warming, downloaded from* www.sierraclub.org/globalwarming/suvreport/suvthreat.asp, 13, March 13, 2004.

16 Environmental Protection Agency, Light Duty Automotive Technology and Fuel Economy Trends, 1975-2001, Sept. 2001, *downloaded from* http:/www.epa.gov/otaq/fetrends.htm, March 10, 2004.

17 *Ibid.*

18 Union of Concerned Scientists, *Building a Better SUV: A blueprint for saving lives, money and gasoline,* Sept. 2003.

Timber Roads Subsidies

The Great Tree Robbery **$170 million**

Our national forests are a source of pride and wealth that provide countless benefits to Americans. These public lands, and the resources therein, are assets held in trust for all citizens. The federal government should ensure that public lands remain a source of environmental wealth and manage them to provide a fair return to all taxpayers. Unfortunately, the U.S. Forest Service spends millions of dollars subsidizing destructive logging practices that damage these precious ecosystems while wasting scarce public dollars. The timber roads program, which assists the timber industry by subsidizing the cost of building roads in our national forests, is a prime example of such destructive and wasteful mismanagement.

"The roads are unsafe. They are crumbling. They are causing all sorts of problems with erosion into pristine streams. And yet this administration wants to go on another road-building binge to fragment up the little bit of remaining roadless area in the United States."

—Rep. Peter Defazio (D-Ore.) on the floor of the House of Representatives, June 17, 2003.

Overview

Historically, the U.S. Forest Service has subsidized the construction of hundreds of thousands of miles of logging roads, used by the timber industry to gain access to our national forests. Approximately 381,000 miles of roads crisscross our national forests — more than 10 times the U.S. Interstate Highway System and enough to circle the earth 17 times.[1] Only 20 percent of these timber roads are passable by passenger cars, 58 percent are passable to high clearance, off-road vehicles, and the remaining 22 percent are closed due to unmanaged maintenance and resource protection.[2] The federal government has subsidized timber roads through the Purchaser Road Credit (PRC) program and engineering and design costs subsidies.

The PRC program allowed the Forest Service to give public trees to timber companies to compensate these companies for the cost of building roads. The program subsidized the timber industry's cost of doing business by helping them access our national forests. Between 1992 and 1997, the program cost taxpayers more than $50 million a year, according to the General Accounting Office (GAO).[3] In 1998, Congress agreed to eliminate this corporate giveaway from the Interior appropriations bill, which funds the Forest Service. However, the program has resurfaced under the new name of the Purchaser Election Program and still supports construction of roads included as "specified roads" in timber sale contracts.

In addition to the PRC program, the Forest Service has subsidized the engineering and design costs of building timber roads for years. Between 1992 and 1997, taxpayers have provided more than $20 million annually to subsidize the timber industry's engineering and design costs for building new roads.[4]

In total, the Forest Service spent $387 million on new timber road construction, engineering and design between 1992 and 1997, according to the GAO.[5]

While Congress continues to allocate millions of dollars each year to build new roads, there is a large maintenance backlog for existing roads in our national forests. The Forest Service's fiscal year 2004 budget justification identified an estimated $10 billion backlog in deferred road and bridge maintenance and capital improvement needs for the national forest road system.[6] A 2002 Program Assessment and Rating Tool (PART) review by the Office of Management and Budget found that the Forest Service "has been unable to demonstrate that it can maintain its current infrastructure needs."[7]

Current Status

In Jan. 2001, the Clinton administration finalized the Roadless Area Conservation Rule. The rule was enacted to protect 58.5 million acres of national forest service lands from destructive activities such as road building. Limiting areas of national forests where road building can occur will help to limit the future costs of road maintenance and allow the Forest Service to better address the needs of roads already in the system. On Dec. 23, 2003, the Bush administration exempted our largest national forest, Alaska's Tongass Rainforest, from the Roadless Area Conservation Rule. A new decision to weaken the Roadless Rule is expected from the Bush administration in the near future.

Meanwhile, Congress has continued to appropriate taxpayer dollars for road building in areas not covered by the Roadless Rule. In fiscal year 2004, the president's budget requested nearly $34 million for the construction and

Road Backlogs by State, Fiscal Year 2002					
(Figures account for direct costs; administrative costs were not included in these totals)					
State	Deferred Maintenance		Capital Improvements		Totals
	CRITICAL	NON-CRITICAL	CRITICAL	NON-CRITICAL	
Alabama	$1,028,766	$14,216,427	$20,215	$2,315,481	$17,580,889
Alaska	$20,381,539	$80,739,112	$0	$800,223,129	$901,343,780
Arizona	$74,918,590	$166,645,936	$15,544,269	$27,749,117	$284,857,912
Arkansas (includes Okla.)	$11,469,671	$78,442,969	$0	$1,201,156	$91,113,796
California	$283,163,081	$612,024,687	$45,077,770	$195,662,821	$1,135,928,360
Colorado (includes Kan.)	$50,496,088	$148,371,472	$21,997,711	$11,247,028	$232,112,299
Florida	$2,899,658	$33,471,395	$34,305	$0	$36,405,358
Georgia	$10,051,177	$37,835,282	$3,254,669	$1,895,175	$53,036,303
Idaho	$129,547,529	$410,232,582	$31,499,387	$89,020,853	$660,300,351
Illinois	$1,115,294	$2,132,254	$0	$0	$3,247,548
Indiana	$6,729,047	$7,965,513	$1,338,838	$0	$16,033,398
Kentucky	$828,408	$7,899,668	$0	$1,278,240	$10,006,316
Louisiana	$2,757,993	$19,309,602	$0	$1,244,586	$23,312,181
Michigan	$34,912,632	$33,927,726	$184,440	$7,405,042	$76,429,840
Minnesota	$1,459,264	$14,614,474	$465,138	$3,117,555	$19,656,431
Mississippi	$2,290,670	$16,760,597	$4,378,231	$2,309,283	$25,738,781
Missouri	$703,309	$11,391,602	$5,041	$4,115,380	$16,215,332
Montana	$98,826,658	$390,853,423	$13,143,622	$166,368,819	$669,192,522
Nebraska	$2,022,369	$3,219,908	$317,579	$62,621	$5,622,477
Nevada	$5,716,466	$10,850,549	$708,511	$43,575,315	$60,850,841
New Hampshire (includes Maine)	$691,421	$9,924,884	$0	$0	$10,616,305
New Mexico	$136,896,223	$344,204,393	$8,524,549	$22,109,317	$511,734,482
North Carolina	$19,064,106	$18,518,392	$3,472,311	$238,943	$41,293,752
North Dakota	$1,712,722	$81,098,931	$2,793,896	$3,085,347	$88,690,896
Ohio	$611,979	$748,969	$0	$113,183	$1,474,131
Oregon	$101,880,457	$462,546,543	$77,375,050	$22,206,341	$664,008,391
Pennsylvania	$860,539	$16,459,971	$141,032	$2,165,377	$19,626,919
Puerto Rico	$38,335	$30,872	$24,408	$27,088	$120,703
South Carolina	$3,403,865	$32,758,547	$0	$2,947,273	$39,109,685
South Dakota	$9,246,485	$47,505,178	$22,802,605	$8,428,010	$87,982,278
Tennessee	$2,179,523	$16,961,372	$1,628,113	$14,953,822	$35,722,830
Texas	$14,310,572	$58,315,298	$8,194,407	$52,228,411	$133,048,688
Utah	$27,109,594	$93,852,101	$370,289	$62,098,013	$183,429,997
Vermont (includes NY)	$316,665	$2,577,964	$0	$0	$2,894,629
Virginia	$4,200,173	$12,768,965	$606,602	$1,800,443	$19,376,183
Washington	$20,429,867	$156,816,906	$1,657,016	$18,939,726	$197,843,515
West Virginia	$1,874,309	$13,737,598	$0	$0	$15,611,907
Wisconsin	$753,864	$42,744,764	$69,325	$271,693	$43,839,646
Wyoming	$13,870,347	$55,154,840	$4,319,642	$553,339	$73,898,168
NATIONAL TOTALS	**$1,100,769,255**	**$3,567,631,666**	**$269,948,971**	**$1,570,957,927**	**$6,509,307,819**

Source: Taxpayers for Common Sense, *Road Wrecked: Why the $10 Billion Forest Service Road Maintenance Backlog is Bad for Taxpayers*, March 2004.

reconstruction of timber roads.[8] The president's fiscal year 2005 budget requested $6.8 million for the Purchaser Election Program — the same amount that was requested last year.[9] Additionally, the president's budget requested $227 million for roads as part of the Capital Maintenance and Improvement Program.[10] A portion of these funds will be used to subsidize the engineering and design costs of timber roads, though it is unclear in the Forest Service's budget justification exactly what amount will be directed to such activities.

Green Scissors Proposal

Congress should cut all federal subsidies for building roads in our national forests. At current funding levels, this would save taxpayers approximately $170 million over five years.

Taxpayer Concerns

Taxpayers should not pay for the timber industry's business costs. Many of the timber companies that have benefited from these subsidies are wealthy corporations that

should pay their own way. For example, some of the large timber companies that have benefited from the roads built under this federal program include Boise Cascade, which generated $1.6 billion in profit for the year ending Dec. 31, 2003;[11] Sierra Pacific Resource Corp., which generated $650 million in profit for the year ending Dec. 31, 2003;[12] and Weyerhaeuser, which generated $3.9 billion in profit for the year ending Dec. 29, 2002.[13]

Congress should address the maintenance backlog instead of wasting more taxpayer money on new roads. Poor road maintenance and continued road construction have resulted in an estimated $10 billion backlog for road maintenance and capital improvement needs.[14] Prioritizing road system expenditures toward existing infrastructure, rather than commissioning the construction of new roads, would help to reduce this taxpayer burden and make better use of existing roads. Support of the Roadless Rule will be the first step in making the Forest Service more fiscally responsible. It will enable the Forest Service to concentrate its efforts on addressing the maintenance of existing roads instead of building new ones.

Congress should stop throwing taxpayer dollars at the Tongass National Forest. The Tongass National Forest in Alaska already contains an estimated 5,000 miles of forest roads. Of these, only 818 miles — or around 23 percent of official forest roads — were open to passenger cars in fiscal year 2002.[15] The Tongass also has a $900 million backlog of deferred road maintenance and capital improvement needs.[16] Adding new roads to this system will only increase the burden that road maintenance will place on future generations of taxpayers. Since 1998, the Tongass has received $24.5 million — or nearly 20 percent of all federal subsidies — for building new roads.[17]

Environmental Concerns

Timber roads degrade water quality and aquatic habitat. America's national forests are home to more than 2,000 major watersheds that contribute to public drinking water sources for more than 60 million people around the nation.[18] Forest roads cause serious soil erosion and stream sedimentation and pollute streams and rivers with construction runoff and toxic emissions.

Timber roads harm wildlife. Forest roads continue to cause significant impacts to grizzly bear security and other wildlife such as elk. Roads fragment habitat and disrupt wildlife-migration routes. Timber roads also provide avenues for alien and invasive species, pests, and diseases that decimate native species.[19]

1 U.S. Department of Agriculture, Forest Service, *Report of the Forest Service, Fiscal Year 1995*, 1996, 129.

2 *Forest Service Budget Justification FY2004, Special Exhibits*, 13-15, 2003.

3 General Accounting Office, *Forest Service Distribution of Timber Sales Receipts, Fiscal Years 1992 through 1994*, GAO/RCED-95-237FS, Sept. 1995; General Accounting Office, *Forest Service Distribution of Timber Sales Receipts, Fiscal Years 1995-1997*. GAO/RCED-99-24, Nov. 1995.

4 *Ibid.*.

5 *Ibid.*

6 *Forest Service Budget Justification FY2004, Capital Improvement and Maintenance*, 8-2, 2003.

7 *Ibid.*

8 *Forest Service Budget Justification FY2004*, 2003.

9 *Budget of the United States Government, Fiscal Year 2005*, 2004.

10 *Ibid.*

11 Yahoo Finance, *downloaded from* finance.yahoo.com/q/is?s=BCC&annual, March 10, 2004.

12 Yahoo Finance, *downloaded from* finance.yahoo.com/q/is?s=SRC&annual, March 10, 2004.

13 Yahoo Finance, *downloaded from* finance.yahoo.com/q/is?s=WY&annual, March 10, 2004.

14 *Supra* note 6.

15 U.S. Forest Service Region 10, *Fiscal Year 2002 Tongass National Forest Road Accomplishment Report.*

16 Taxpayers for Common Sense, *Road Wrecked: Why $10 Billion Forest Service Road Maintenance Backlog is Bad for Taxpayers*, March 2004.

17 *Ibid.*

18 National Environmental Trust & Heritage Forests Campaign, *Protecting America's National Forests*, 2001.

19 Natural Resources Defense Council, *End of the Road: The Adverse Ecological Impacts of Roads and Logging: A Compilation of Independently Reviewed Research*, Dec. 1999, *downloaded from* http://www.nrdc.org/land/forests/roads/eotrinx.asp, March 30, 2004.

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Led by Friends of the Earth, Taxpayers for Common Sense, and the U.S. Public Interest Research Group, the Green Scissors Campaign works with Congress and the administration to end wasteful and environmentally harmful spending. With strong bipartisan support, the Campaign has succeeded in cutting funding for wasteful federal programs by more than $26 billion.