HOUSE COMMITTEE ON
NATURAL RESOURCES
CHAIRMAN BRUCE WESTERMAN

To:	Subcommittee on Oversight and Investigations Republican Members
From:	Subcommittee on Oversight and Investigations Staff: Lucas Drill (Lucas.Drill@mail.house.gov) x5-0500
Date:	Monday, May 18, 2026
Subject:	Oversight Hearing titled *"The Profit Engine Driving Environmental Nonprofits"*

The Subcommittee on Oversight and Investigations will hold an oversight hearing titled *"The Profit Engine Driving Environmental Nonprofits"* on **Wednesday, May 20, 2026, at 2:00 p.m., in room 1324 Longworth House Office Building**.

Member offices are requested to notify Sinclair Kouns (Sinclair.Kouns@mail.house.gov) by 4:30 p.m. on Tuesday, May 19, 2026, if their Member intends to participate in the hearing.

I. KEY MESSAGES

- Statutory fee-shifting provisions, like those in the Endangered Species Act (ESA) and Equal Access to Justice Act (EAJA), were originally intended to combat federal overreach and wrongdoing, primarily by shifting litigation costs away from plaintiffs finding themselves facing off against the federal government.
- Radical environmental nonprofit organizations have exploited these fee-shifting provisions to fund never-ending lawfare campaigns with taxpayer dollars.
- In fact, preservationist non-governmental organizations (NGOs) have built a business model of siphoning taxpayer dollars by weaponizing environmental statutory fee-shifting provisions, settling vexatious lawsuits that sometimes include additional grants, and fundraising off all these efforts.
- In awarding fees and costs to litigating radical nonprofits, courts often employ the "lodestar method," which enables nonprofit lawyers to set their own "reasonable" rates and multiply those by "reasonable" hours worked, leading to awards that far exceed the values assigned to attorneys working on cases by their own employers, sometimes by more than 700 percent.
- This troubling status quo, along with the severely lacking oversight mechanisms that apply to litigation awards, creates perverse incentives, encouraging radical environmental groups to focus their business model on litigating and bilking taxpayers rather than meaningfully conserving America's vast natural resources.

II. WITNESSES

Panel I (Outside Experts)

- **Mr. Jonathan Wood**, Vice President of Law & Policy, Property and Environment Research Center, Bozeman, MT
- **Mr. Lawson Fite**, Natural Resources Attorney, [Shareholder, Schwabe, Williamson & Wyatt, P.C.,] Portland, OR
- **Mr. Ken Braun**, Managing Editor and Director of Content, Capital Research Center, Saginaw, MI
- **Mr. Eddie Ahn**, Executive Director, Brightline Defense, San Francisco, CA (*Minority witness*)

III. BACKGROUND

Introduction

Throughout the 118th and 119th Congresses, the House Committee on Natural Resources has investigated the outsized influence that preservationist environmental nonprofit organizations wield over the federal government, law, and natural resources policy.[1] Undoubtedly, many conservation-minded nonprofit organizations play a fundamental role in resource stewardship by advocating for, and allocating resources to, tangible efforts like improving forest management and habitat restoration, increasing access to wild places, and balancing the essential multiple uses of America's public lands. Yet many others have capitalized on misleading, emotive messaging to build powerful and profitable litigation machines.[2] Accordingly, Congressional oversight of nonprofit-driven litigation campaigns and subsequent fee awards is imperative. Such oversight will help ensure compliance with Congress's legislative intent for statutes with fee-shifting provisions and inform future legislative reforms to prevent continued abuse by radical environmental groups.[3]

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[1] *See, e.g.*, *Examining the Influence of Extreme Environmental Activist Groups in the Department of the Interior*, Oversight Hearing before the Subcomm. on Oversight and Investigations of the H. Comm. on Natural Resources, 118th Cong. (Apr. 30, 2024) (hearing memorandum), https://naturalresources.house.gov/uploadedfiles/hearing_memo_--_sub_on_oi_ov_hrg_on_nonprofits_influencing_doi_04.30.24.pdf; *The Fish and Wildlife Service Gone Wild: Examining Operation Long Tail Liberation*, Oversight Hearing before the Subcomm. on Oversight and Investigations of the H. Comm. on Natural Resources, 118th Cong. (Sept. 10, 2024) (hearing memorandum), https://naturalresources.house.gov/uploadedfiles/hearing_memo_--_sub_on_oi_ov_hrg_on_operation_longtail_09.10.24.pdf; *Desecrating Old Glory: Investigating How the Pro-Hamas Protests Turned National Park Service Land into a Violent Disgrace*, Oversight Hearing before the Subcomm. on Oversight and Investigations of the H. Comm. on Natural Resources, 118th Cong. (Dec. 10, 2024) (hearing memorandum), https://naturalresources.house.gov/uploadedfiles/hearing_memo_--_sub_on_oi_ov_hrg_on_hamas_protest_12.10.24.pdf; *Abuse of the Equal Access to Justice Act by Environmental NGOs*, Oversight Hearing before the Subcomm. on Oversight and Investigations of the H. Comm. on Natural Resources, 119th Cong. (Dec. 8, 2025) (hearing memorandum), https://docs.house.gov/meetings/II/II15/20251210/118696/HHRG-119-II15-20251210-SD002.pdf.

[2] *Contrast How we Conserve: Restoring Big Game Country*, ROCKY MOUNTAIN ELK FOUND. (2026) (highlighting examples of completed field projects), https://www.rmef.org/how-we-conserve/restoring-big-game-country/, *with About Us*, WILDEARTH GUARDIANS (2026) (using examples of past litigation victories to support the assertion that "WildEarth Guardians protects and restores the wildlife, wild places, wild rivers, and health of the American West"), https://wildearthguardians.org/about-us/.

[3] *See, e.g.*, *Abuse of the Equal Access to Justice Act by Environmental NGOs*, Oversight Hearing before the Subcomm. on Oversight and Investigations of the H. Comm. on Natural Resources, 119th Cong. (Dec. 8, 2025) (hearing memorandum), https://docs.house.gov/meetings/II/II15/20251210/118696/HHRG-119-II15-20251210-SD002.pdf.

Fee-Shifting Fundamentals of Environmental Litigation in the United States

U.S. federal courts have typically followed the so-called "American Rule,"[4] which prescribes that litigants generally pay their own litigation costs.[5] Fundamentally, the American Rule aims to prevent "losing litigants [from] being unfairly saddled with exorbitant fees for the victor's attorney[s]," experts, and other litigation costs.[6] In the U.S., attorneys and their clients are generally free to agree to whatever cost terms they deem appropriate, with quality legal representation typically being expensive.[7] Consequently, U.S. courts and legislators have long maintained that the American Rule, by generally requiring litigants to pay their own way, maximizes fairness.

Nevertheless, nearly every rule has exceptions, and the American Rule concedes statutory fee-shifting provisions.[8] The American Rule's exception for statutory fee shifting is especially significant when a party finds itself opposing the federal government. To "deter government overreach and wrongdoing,"[9] the U.S. Constitution provides for accessible dispute resolution in a judicial forum.[10] Yet prospective plaintiffs—particularly those who are indigent or otherwise unable to afford expensive legal representation—may be less likely to file suit when facing the immense financial resources of the U.S. government.[11]

To address these concerns, Congress enacted "numerous fee-shifting statutes that allowed awards of fees against the [U.S.] only in specific types of cases, such as cases arising under Title VII of the Civil Rights Act or the Freedom of Information Act"[12] or the Endangered Species Act (ESA). In 1980,[13] Congress enacted the Equal Access to Justice Act (EAJA) as a catch-all, fee-shifting statute intended to permit "awards of attorney's fees [and other expenses] against the federal government in several types of judicial and administrative proceedings," except as otherwise already covered by more specific statutes allowing or restricting fee awards.[14]

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[4] The American Rule stands in contrast with the "English Rule," which is followed in many other jurisdictions around the world and stipulates that losing parties pay prevailing parties' costs, including attorney's fees.
[5] *See, e.g.*, *Alyeska Pipeline Serv. Co. v. Wilderness Soc'y*, 421 U.S. 240 (1975); JOANNA R. LAMPE, CONG. RSCH. SERV., IF11246, ATTORNEY'S FEES AND THE EQUAL ACCESS TO JUSTICE ACT: LEGAL FRAMEWORK (June 2, 2023), https://www.crs.gov/Reports/IF11246; *Civil Resource Manual: 220. Attorney's Fees*, U.S. DEP'T OF JUST. (1998), https://www.justice.gov/archives/jm/civil-resource-manual-220-attorneys-fees.
[6] *See Alyeska Pipeline Serv. Co. v. Wilderness Soc'y*, 421 U.S. 240 (1975).
[7] *See, e.g.*, Staci Zaretsky, *The Biglaw Firms With The Highest Hourly Rates* (2024), ABOVE THE LAW (Nov. 14, 2024), https://abovethelaw.com/2024/11/the-biglaw-firms-with-the-highest-hourly-rates-2024/.
[8] *See, e.g.*, *Alyeska Pipeline Serv. Co. v. Wilderness Soc'y*, 421 U.S. 240 (1975); JOANNA R. LAMPE, CONG. RSCH. SERV., IF11246, ATTORNEY'S FEES AND THE EQUAL ACCESS TO JUSTICE ACT: LEGAL FRAMEWORK (June 2, 2023), https://www.crs.gov/Reports/IF11246; *Civil Resource Manual: 220. Attorney's Fees*, U.S. DEP'T OF JUST. (1998), https://www.justice.gov/archives/jm/civil-resource-manual-220-attorneys-fees.
[9] *See* JOANNA R. LAMPE, CONG. RSCH. SERV., IF11246, ATTORNEY'S FEES AND THE EQUAL ACCESS TO JUSTICE ACT: LEGAL FRAMEWORK (June 2, 2023), https://www.crs.gov/Reports/IF11246.
[10] The idea that everyone is entitled to their day in court is rooted in the First Amendment's Petition Clause, the Fifth and Fourteenth Amendments' Due Process Clauses, and, in a criminal context, the Sixth Amendment. *See* U.S. CONST. amend. I; U.S. CONST. amend. V; U.S. CONST. amend. VI; U.S. CONST. amend. XIV, § 1. This idea is also encapsulated by Rule 3 of the Federal Rules of Civil Procedure. *See* FED. R. CIV. P. 3.
[11] *See* JOANNA R. LAMPE, CONG. RSCH. SERV., IF11246, ATTORNEY'S FEES AND THE EQUAL ACCESS TO JUSTICE ACT: LEGAL FRAMEWORK (June 2, 2023), https://www.crs.gov/Reports/IF11246.
[12] *Id.*
[13] EAJA was first temporarily enacted in 1980, then reauthorized permanently in 1985. *Id.*
[14] *Id.*; *see also* 28 U.S.C. § 2412; 5 U.S.C. § 504; *Information Interchange Bulletin No. 013: Equal Access to Justice Act Basics*, ADMIN. CONF. OF THE U.S. (2021), https://www.acus.gov/sites/default/files/documents/13%20EAJA%20Basics.pdf. Fees and other expenses include reasonable expenses of expert witnesses; reasonable costs of any study, analysis, engineering report, test, or project deemed necessary by the court or agency for the preparation of a party's case; and reasonable attorney fees. 28 U.S.C. § 2412(d)(2)(A); 5 U.S.C. § 504(b)(1)(A).

Today, most environmental litigation is brought under statutes with fee-shifting provisions, allowing litigants who meet certain requirements—namely, that they are ultimately a prevailing or substantially prevailing party—to recover fees and costs.[15] Fees paid to parties suing the federal government under specific statutes—like ESA; Surface Mining Control and Reclamation Act; Comprehensive Environmental Response, Compensation, and Liability Act; Resource Conservation and Recovery Act; Clean Air Act; and Clean Water Act—are typically drawn from the Treasury Judgment Fund, a permanent indefinite appropriation for the payment of judgements against the U.S. government not tied to other agency appropriations.[16] Fees paid under EAJA for environmental litigation, however, are primarily drawn from federal agency appropriations.[17]

Fee-shifting provisions in statutes like ESA and EAJA originally served to "diminish the deterrent effect of seeking review of, or defending against, governmental action" through the award of attorney's fees and other expenses.[18] Unfortunately, however, these provisions have also enabled prominent nonprofits already flush with cash, particularly those operating in the environmental and natural resources space, to recover the litigation costs of their vexatious lawfare campaigns.[19]

Current Environmental Fee-Shifting Practices Enable Award Abuse and Waste and Serve a Troublesome Business Model

Statutory fee-shifting provisions, as currently written and implemented in legal practice, are ripe for abuse by extremist environmental nonprofits. Fundamentally, because 501(c)(3) organizations are exempt from net-worth and size caps, large environmental nonprofits repeatedly file vexatious or frivolous lawsuits against the U.S., correctly anticipating that they will likely recoup any funds expended during litigation.[20] Effectively, EAJA and other statutory fee-shifting provisions allow these entities to function as large law firms funded by taxpayer dollars,[21] employing a simple but lucrative profit model: sue to block federal actions in friendly courts, collect taxpayer-funded attorney's fees and costs whenever prevailing or able to settle in court, and fundraise on the back of courtroom victories.[22] Lather, rinse, repeat.

In many cases, nonprofit plaintiffs do not even need to fully "win" a case to recover fees. For example, under EAJA, "prevailing" plaintiffs can recover attorney's fees with "even a partial

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[15] *Technical Assistance for the House Committee on Natural Resources – Majority Equal Access to Justice Act*, on file with the Subcomm. on Oversight and Investigations of the H. Comm. on Natural Resources.
[16] *Id.*; *see also* U.S. GOV'T ACCOUNTABILITY OFF., GAO-12-417R, LIMITED DATA AVAILABLE ON USDA AND INTERIOR ATTORNEY FEE CLAIMS AND PAYMENTS (Apr. 12, 2012), https://www.gao.gov/assets/gao-12-417r.pdf.
[17] *Technical Assistance for the House Committee on Natural Resources – Majority Equal Access to Justice Act*, on file with the Subcomm. on Oversight and Investigations of the H. Comm. on Natural Resources.
[18] *About the Equal Access to Justice Act (EAJA)*, ADMIN. CONF. OF THE U.S., https://www.acus.gov/eaja/background.
[19] *Id.*; *see also Equal Access to Justice Act Reform*, PUB. LANDS COUNCIL (Oct. 27, 2025), https://publiclandscouncil.org/what-we-do/policy-issues/equal-access-to-justice-act-reform.
[20] Many of these groups also use such lawsuits to fundraise, further benefitting from EAJA and enabling them to sue indiscriminately.
[21] *See Equal Access to Injustice*, ROCKY MOUNTAIN ELK FOUND. (Sep. 9, 2021), https://rmef.org/media/equal-access-to-injustice/.
[22] *Id.*; *see also Time to Fix the Broken Equal Access to Justice Act*, HEALTHY FORESTS, HEALTHY COMMUNITIES (May 14, 2025), https://healthyforests.org/2025/05/time-to-fix-the-broken-equal-access-to-justice-act/.

victory or procedural settlement . . . regardless of the lawsuit's broader merit or public benefit."[23] Under the ESA, the standard is even more ambiguous: courts may award fees and costs "to any party, whenever the court determines such award is appropriate."[24] And although some courts have sought to narrow the legislative language by reading in a prevailing party requirement, the stark reality is that courts overwhelmingly view plaintiffs as serving the public good, and defendants almost never recover.[25]

Moreover, fee-shifting provisions within environmental statutes fail to effectively set upper limits on hourly rates. For example, EAJA caps reimbursable attorney's fees at a rate of $125 per hour, unless the reviewing court or agency determines that "an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee."[26] EAJA, however, does not sufficiently define "special factor," allowing many environmental lawyers to avoid the $125-per-hour fee cap by claiming that their expertise is "specialized."[27] Consequently, environmental NGOs have been reimbursed under EAJA for attorney's fees at rates as high as $500 per hour.[28] Other statutes, like ESA, have seen even higher recoveries, exceeding $650 per hour.[29]

The federal government also has an incentive to settle disputes, rather than contest the fee award, to reduce the overall attorney's fees that may accrue.[30] This is because settlements often result in somewhat smaller awards and, under most statutory fee-shifting provisions, prevailing parties can recover the fees and costs associated with time spent contesting fees and costs. This allows plaintiffs to "prevail on process instead of substance."[31] And, because the U.S. government often fails to adequately contest fee awards and regularly concedes prevailing party status to nonprofit groups in settlement agreements, taxpayer dollars effectively fund these nonprofits' sue-and-settle tactics.[32]

Litigation fee awards received by environmental nonprofits are also often sizeable enough to fund their marketing campaigns and donor outreach.[33] For example, one of the most litigious

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[23] *Time to Fix the Broken Equal Access to Justice Act*, HEALTHY FORESTS, HEALTHY COMMUNITIES (May 14, 2025), https://healthyforests.org/2025/05/time-to-fix-the-broken-equal-access-to-justice-act/.
[24] 16 U.S.C. § 1540(g).
[25] *See* Benjamin Rubin, *District Court Awards Fees to ESA Defendant, Ordering Plaintiffs Jointly and Severally Liable*, NOSSAMAN LLP ENDANGERED SPECIES LAW & POLICY (May 24, 2013), https://www.endangeredspecieslawandpolicy.com/district-court-awards-fees-to-esa-defendant-ordering-plaintiffs-jointly-and-severally-liable.
[26] 5 U.S.C. § 504(b)(1)(A); 28 U.S.C. § 2412(d)(2)(A).
[27] *See* ENDANGERED SPECIES ACT CONGRESSIONAL WORKING GROUP, REPORT, FINDINGS AND RECOMMENDATIONS (Feb. 4, 2014), https://naturalresources.house.gov/uploadedfiles/esa_working_group_final_report__and_recommendations_02_04_14.pdf.
[28] *See id.*; *see also* Lowell E. Baier, *Reforming the Equal Access to Justice Act*, 38 J. LEGIS. 1 (2012), https://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=1000&context=jleg.
[29] *See* Jonathan Wood, *Forest Fight: When Litigation Pays Better than Conservation*, PROPERTY AND ENVIRONMENT RESEARCH CENTER (Dec. 19, 2024), https://www.perc.org/2024/12/19/forest-fight/.
[30] *See* Lowell E. Baier, *Reforming the Equal Access to Justice Act*, 38 J. LEGIS. 1 (2012), https://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=1000&context=jleg.
[31] *Id.*
[32] *See* Chairman Westerman to The Wilderness Society, (December 1, 2025), letter on file with the Subcomm. on Oversight and Investigations of the H. Comm. on Natural Resources. The phrase "sue and settle" typically refers to "when a federal agency agrees to a settlement agreement, in a lawsuit from special interest groups, to create priorities and rules outside of the normal rulemaking process." *Sue and Settle: Regulating Behind Closed Doors*, U.S. CHAMBER OF COMMERCE (Mar. 6, 2018), https://www.uschamber.com/regulations/sue-and-settle-regulating-behind-closed-doors. Here, an "agency intentionally relinquishes statutory discretion by committing to timelines and priorities that often realign agency duties. These settlement agreements are negotiated behind closed doors with no participation from the public or affected parties." *Id.* Concerningly, these closed-door settlements sometimes include additional grants to nonprofit organizations.
[33] *See Equal Access to Injustice*, ROCKY MOUNTAIN ELK FOUND. (Sep. 9, 2021), https://rmef.org/media/equal-access-to-injustice/.

environmental NGOs, the Center for Biological Diversity (CBD), keeps a "Trump Lawsuit Tracker" that proudly advertises the 104 lawsuits it has filed so far against the current Trump administration.[34] During the first Trump administration, CBD's tracker flaunted 266 lawsuits, claiming that "[its] lawyers worked feverishly to oppose every attempt [the Trump] administration made to worsen climate change, kill wildlife, endanger public health, and destroy public lands."[35] Located next to the running lawsuit total on CBD's website is a "Give Today" box that solicits contributions to support CBD's lawfare.[36] Similarly, Earthjustice includes a lawsuit tracker on its website[37] and maintains a donation page thanking the "generous supporters who have helped to make sure the earth has a good lawyer."[38]

These unfortunate realities create perverse incentives, encouraging radical environmental groups to focus their business models on litigating and bilking taxpayers rather than on meaningfully conserving America's vast natural resources.

How are Awarded Fees and Costs Determined?

To be clear, the attorney's fees and costs awarded to radical, litigating nonprofit organizations almost always far exceed the value assigned to attorneys working on cases by their own employers. In fact, rather than seeking to make a prevailing party whole with an award that compensates for costs incurred, courts award fees and costs in amounts "far more than necessary to reimburse a prevailing plaintiff. When courts award fees, they do not look at the actual amounts paid to the attorneys in the case."[39] Rather, courts "set a hypothetical hourly rate for each attorney and then multiply that rate by the number of hours each attorney reported working on the case."[40] Of course, "this method could equate to the actual costs to litigate the case, if the hourly rate selected by the court matches the rate the attorney actually charged. But that will rarely happen in practice. Instead, court-set fees usually exceed the rate the party would pay if they had lost the case."[41] Attorneys seeking fees and costs often propose their own "reasonable" rates.

In a land use and logging case highlighted by the Property and Environment Research Center's Jonathan Wood, attorneys asserted "hourly rates ranging from $140 an hour (for the work of a law student intern) to $650 an hour (for an attorney with 30 years of experience)."[42] In reality, [a]n experienced attorney at a nonprofit organization will often make somewhere between $100,000 and $200,000, which equates to an hourly cost to the organization of $50 to $100."[43] Accordingly, "[a]ssuming the court accepts the rates asserted, as most do, the work of a law student intern will be compensated at a rate higher than virtually all senior nonprofit

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[34] *See Standing Strong for Life on Earth: Stopping the Second Trump Administration's Anti-Environment Attacks*, CTR. FOR BIOLOGICAL DIVERSITY, https://www.biologicaldiversity.org/campaigns/trump_lawsuits/index.html, last accessed May 16, 2026.
[35] *Id.*
[36] *Id.*
[37] *See Our Lawsuits Against the Trump Administration*, EARTHJUSTICE (Dec. 11, 2025), https://earthjustice.org/feature/trump-environment-lawsuits.
[38] *Your Donation at Work*, EARTHJUSTICE (2025), https://earthjustice.org/about/your-donation-at-work.
[39] Jonathan Wood, *Forest Fight: When Litigation Pays Better than Conservation*, PROPERTY AND ENVIRONMENT RESEARCH CENTER (Dec. 19, 2024), https://www.perc.org/2024/12/19/forest-fight/.
[40] *Id.*
[41] *Id.*
[42] *Id.*
[43] *Id.*

environmental attorneys are actually paid."[44] In fact, in that case, "[p]ublic financial forms show that one of the attorneys . . . makes less than $125,000. This translates to an hourly rate of less than $62.50."[45] Yet, [t]he rate for that attorney asserted, . . . however, is $515 an hour, which represents at least a 700 percent profit margin for the [nonprofit] organization whenever it can recover for the employee's time in an attorney's fee award."[46]

The method described above—multiplying the number of hours an attorney asserts he reasonably[47] worked by the court's accepted hourly rate—of calculating fees to be awarded is generally referred to as the "lodestar method."[48] And though courts have largely adopted the lodestar method, issues with its use and the "reasonableness" standard it employs are widely recognized. Some courts, for example, have pointed to "additional litigation, inconsistency, and manipulability" as clear problems. Others have noted "increased workloads for district judges; perverse incentives for attorneys, especially regarding settlement; a false sense of mathematical precision; and a bias against public interest lawyers"[49] who courts do not favor as much as they do radical environmental groups.[50]

These issues create a situation where courts must decide what matters more: fairness, consistency, or judicial economy.[51] In other words, a court may—and likely will—determine that reviewing attorney time entries is too time-consuming and instead use an arbitrary percentage cut to "adjust the overall award rather than excising problematic entries."[52] Knowing this, radical nonprofit organizations more often than not justify awards by citing to court precedent suggesting baseline "reasonable" hours and rates, apply enhancements for their "expertise" and status as public interest environmental organizations, and submit lackluster time logs with written explanations for hours worked that would never be tolerated in private practice.[53] Thus, neither courts nor government attorneys, who are incentivized to settle cases, adequately dispute fees and costs sought by radical nonprofits. Accordingly, oversight mechanisms typically built

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[44] *Id.*
[45] *Id.*
[46] *Id.*
[47] Reasonableness, though a central aspect of the lodestar method, is not well defined. Rather, whether rates and hours are reasonable sometimes has more to do with what a particular court has awarded in the past than with the amount of work a case actually required and what the attorney earns from his employer or paid client.
[48] *See* Matthew Ahn, *Navigating Beyond the Lodestar: Borrowing the Federal Sentencing Guidelines to Provide Fee-Shifting Predictability*, 127 DICKINSON L. REV. 1 (Dec. 18, 2022), https://insight.dickinsonlaw.psu.edu/cgi/viewcontent.cgi?article=1159&context=dlr.
[49] *Id.*
[50] Some courts in the Ninth Circuit have gone so far as to imply that public interest environmental law, a niche entirely occupied by radical preservationist groups, is uniquely valuable, warranting higher litigation awards than even regular environmental law or land use practice. *See Kathrens v. Bernhardt*, 505 F. Supp. 3d 1085, 1092 (D. Or. 2020) (stating "I agree Plaintiffs should not be lumped in with real estate and land use practices, and I also agree there is some difference between public interest environmental attorneys and other environmental attorneys"). What this means in practice is that a clear double standard exists: radical left-wing groups like CBD and WildEarth Guardians are routinely awarded astronomical fees and costs under the lodestar method or similar tests, but other public interest law firms or organizations with a centrist, libertarian, or conservative viewpoint are routinely denied awards to such an extent that they stop seeking fees and costs, even when supposedly justifiable.
[51] *See* Matthew Ahn, *Navigating Beyond the Lodestar: Borrowing the Federal Sentencing Guidelines to Provide Fee-Shifting Predictability*, 127 DICKINSON L. REV. 1 (Dec. 18, 2022), https://insight.dickinsonlaw.psu.edu/cgi/viewcontent.cgi?article=1159&context=dlr.
[52] *See* Matthew Ahn, *Navigating Beyond the Lodestar: Borrowing the Federal Sentencing Guidelines to Provide Fee-Shifting Predictability*, 127 DICKINSON L. REV. 1 (Dec. 18, 2022), https://insight.dickinsonlaw.psu.edu/cgi/viewcontent.cgi?article=1159&context=dlr.
[53] *See, e.g.*, Brief in Support of Plaintiffs' Motion for Attorneys' Fees & Other Costs & Expenses, No. 9:21-cv-00051-DLC (D. Mont. Jul. 11, 2024). Legal industry standard requires that attorneys billing clients track time worked on any matter in six-minute increments, or 0.1 hours. Time entries are required to be accompanied by written justifications of time worked that include sufficient detail for clients to review and dispute.

into an attorney-client relationship, like the ability for a client to review and dispute detailed time logs for which they are billed before they pay any invoice, do not exist in adequate form to protect taxpayer dollars awarded to radical NGOs through litigation.

Looking Forward

One fundamental role of Congressional oversight and investigations is to root out waste, fraud, and abuse of taxpayer dollars. Unfortunately, and contrary to their original legislative intent, statutory fee-shifting provisions have incentivized radical environmental nonprofits to build a business model focused on siphoning taxpayer dollars by weaponizing litigation awards, settling vexatious lawsuits that sometimes include additional grants, and fundraising off all these efforts. As the government's authority to settle in these cases is "unmediated and unreviewable" and can be used to "appease repeat litigants," environmental activists have warped the justice system and burdened agencies with lawsuits that divert personnel and resources from core missions.[54] In fact, agencies are not able to even provide estimates of costs related to litigation reflecting staff time and resources.[55] These lawsuits prevent necessary land management activities and thwart the efforts of President Trump and Congressional Republicans to safeguard American energy independence and support responsible management of our natural resources. Without the sunlight of Congressional oversight, coupled with meaningful legislative reform, radical environmental nonprofit organizations will continue to implement their litigation-focused business model at the expense of American taxpayers.

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[54] *See* Lowell E. Baier, *Reforming the Equal Access to Justice Act*, 38 J. Legis. 1 (2012), https://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=1000&context=jleg.
[55] *Technical Assistance for the House Committee on Natural Resources – Majority Equal Access to Justice Act*, on file with the Subcomm. on Oversight and Investigations of the H. Comm. on Natural Resources.