

Industry lawsuits against the EPA spiked in 2010

About half of all lawsuits against the EPA are filed by corporate interests

by Bob Berwyn

SUMMIT COUNTY - Environmental lawsuits against the EPA spiked to the highest level since 1997, but a report from the U.S. Government Accountability Office shows that businesses and trade groups —and not environmentalists — file the most lawsuits against the federal agency.

On average, the U.S. Justice Department spends about \$3.3 million per year defending the EPA in court, and pays another \$1.8 million per year to plaintiffs.

The issue of environmental lawsuits has taken on a high political profile recently as Republicans have blasted conservation groups for their legal tactics, but the report shows that those attacks are just part of the right-wing blast of rhetoric aimed at trying to marginalize mainstream environmental groups.

The GAO report shows that, of 2,000 cases filed against the EPA between 1995 to 2010, 48 percent were filed by corporate interests (25 percent by trade associations, 23 percent by private companies), while environmental groups filed only 30 percent of the lawsuits (16 percent by local groups, 14 percent by national groups).

The others included states, municipalities, regional governments and territories (12 percent), individuals (7 percent), unions, universities and tribes (2 percent) and other (1 percent).

The report was issued in response to a request by the U.S. Senate Committee on Environment and Public Works to review environmental litigation data.

“Conservative politicians and industry lobbyists have been attacking environmental groups for suing the government too much, but this study clearly shows that business interests actually file the most lawsuits against EPA,” said John Buse, legal director at the Center for Biological Diversity. “The right wing’s deafening silence when it comes to polluters’ lawsuits betrays its true agenda. It’s not really against litigation; it’s just against litigation to protect our air, water and environment.”

Industry suits were strongly correlated with whether the presidential administration was Republican or Democratic, with a large number of suits against the Clinton administration, many fewer against Bush and a large increase with the onset of the Obama administration. Environmental suits were weakly correlated with presidential administrations.

Federal law allows plaintiffs to collect attorney fees when they prevail in certain cases against the government. Though environmental groups filed fewer suits against the EPA, they received more fees than any of the other groups in today’s study.

“We sue the EPA when it doesn’t comply with laws to protect clean air, clean water and human health. And more often than not, federal judges have agreed with us that EPA wasn’t doing its job,” said Buse. “President Obama and the EPA should follow the law and ignore the false rhetoric of polluters. When the administration follows the law, everyone wins.”

The GAO report says it’s difficult to track the exact amount of money paid out, and to detect trends in lawsuits because the Justice Department maintains two separate data sets and doesn’t use a standardized accounting system for the information