

Environmental Takings refer to impacts on private land valuation due to environmental regulations. Connected to “takings” as they are referenced in the Fifth Amendment, “private property shall not be taken for public use without just compensation,” environmental takings may be invoked during the consideration of large-scale regulations (e.g riparian set-backs for logging). Though initially intended to refer to takings of real or physical property, the concept has been expanded to include any limit to a property owners’ ability “to maximize the profit-making potential of their property by restricting development, logging, or other economic



uses of land.” If takings were enforced for every environmental regulation or every regulation developed for the public good (e.g Clean Water Act), it would be too expensive for federal, state, or local governments to compensate private landowners – essentially stalling the enforcement of the proposed regulations. For example, a fishing outfitter could sue Montana Fish Wildlife & Parks for changing fishing quotas that keep wildlife populations healthy by demanding payment for fish not caught or trips not launched because of restrictive fishing limits. Or, a developer could sue for payment for water rights denied due to local water appropriation limits. In these instances, state and local governments should not necessarily, but could be, required to compensate owners of private property if a regulation reduces the market value of a property. Alternatively, sound environmental regulation and land use policy can allow communities to prevent irresponsible development and ecosystem degradation, while preserving the rights of all property owners. The risk of extending the interpretation of environmental takings too broadly motivates our public policy positions.

### The policy of Montana Audubon regarding Environmental Takings is to:

- Educate the public and decision makers about the impact environmental takings could have on overall environmental quality and broad scale environmental protection
- Educate decision makers that sound environmental protection policies, such as air and water pollution control laws or laws protecting property owners from their neighbors’ pollution, actually support private property rights
- Oppose the extension of environmental takings to include impacts imposed by broad scale environmental regulation like the Clean Air or Clean Water act
- Support land use and environmental regulation that supports responsible development alongside private property rights