

105TH CONGRESS
1ST SESSION

H. R. 2911

To amend the Endangered Species Act of 1973 to improve the ability of individuals and local, State, and Federal agencies to prevent natural flood disaster.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 7, 1977

Mr. POMBO (for himself and Mr. HERGER) introduced the following bill; which was referred to the Committee on Resources

A BILL

To amend the Endangered Species Act of 1973 to improve the ability of individuals and local, State, and Federal agencies to prevent natural flood disaster.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. PURPOSE.**

4 The purpose of this Act is to assist individuals and
5 local, State, and Federal agencies in complying with the
6 Endangered Species Act of 1973 in reconstructing or re-
7 pairing of flood control levee structures to address immi-
8 nent threats to public health or safety or catastrophic nat-

1 ural events and in maintaining the structural integrity of
2 those structures.

3 **SEC. 2. AMENDMENTS TO ENDANGERED SPECIES ACT OF**
4 **1973.**

5 (a) ACTIONS EXEMPT FROM CONSULTATION AND
6 CONFERENCING.—Section 7(a) of the Endangered Species
7 Act of 1973 (16 U.S.C. 1536(a)) is amended by adding
8 at the end the following new paragraph:

9 “(5) Consultation and conferencing under paragraphs
10 (2) and (4) is not required for any agency action that—

11 “(A) consists of reconstruction or repair of a
12 Federal or non-Federal levee structure—

13 “(i) to address a critical, imminent threat
14 to public health or safety; or

15 “(ii) to address a catastrophic natural
16 event; or

17 “(B) consists of maintaining the structural in-
18 tegrity of a Federal or non-Federal levee structure.”.

19 (b) EXCLUSION FROM TAKINGS PROHIBITION.—Sec-
20 tion 9(a) of such Act (16 U.S.C. 1538(a)) is amended by
21 adding at the end the following new paragraph:

22 “(3) For purposes of this subsection, an activity of
23 a Federal or non-Federal person is not a taking of a spe-
24 cies if the activity—

1 “(A) consists of reconstruction or repair of a
2 Federal or non-Federal levee structure—

3 “(i) to address a critical, imminent threat
4 to public health or safety; or

5 “(ii) to address a catastrophic natural
6 event; or

7 “(B) consists of maintaining the structural in-
8 tegrity of a Federal or non-Federal levee structure.”.

