

110TH CONGRESS
2^D SESSION

H. R. 6006

To amend title 10, United States Code, to authorize the Secretary of a military department, and the Secretary of Defense with respect to the Defense Agencies, to participate in conservation banking programs and in-lieu-fee mitigation programs.

IN THE HOUSE OF REPRESENTATIVES

MAY 8, 2008

Ms. BORDALLO (for herself, Mr. ABERCROMBIE, and Mr. HAYES) introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to authorize the Secretary of a military department, and the Secretary of Defense with respect to the Defense Agencies, to participate in conservation banking programs and in-lieu-fee mitigation programs.

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

1 **SECTION 1. AUTHORIZATION FOR DEPARTMENT OF DE-**
2 **FENSE PARTICIPATION IN CONSERVATION**
3 **BANKING PROGRAMS.**

4 (a) PARTICIPATION AUTHORIZED.—Chapter 159 of
5 title 10, United States Code, is amended by inserting after
6 section 2694b the following new section:

7 **“§ 2694c. Participation in conservation banking pro-**
8 **grams**

9 “(a) AUTHORITY TO PARTICIPATE.—The Secretary
10 of a military department, and the Secretary of Defense
11 with respect to a Defense Agency, when engaged or pro-
12 posing to engage in an activity described in subsection (b)
13 that may or will result in an adverse impact to one or
14 more species protected (or pending protection) under any
15 applicable provision of law, or habitat for such species,
16 may make payments to a conservation banking program
17 or ‘in-lieu-fee’ mitigation sponsor approved in accordance
18 with—

19 “(1) the Federal Guidance for the Establish-
20 ment, Use and Operation of Mitigation Banks (60
21 Fed. Reg. 58605; November 28, 1995);

22 “(2) the Guidance for the Establishment, Use,
23 and Operation of Conservation Banks (68 Fed. Reg.
24 24753; May 2, 2003); or

25 “(3) any successor or related administrative
26 guidance or regulation.

1 “(b) COVERED ACTIVITIES.—Payments to a con-
2 servation banking program or ‘in-lieu-fee’ mitigation spon-
3 sor under subsection (a) may be made only for the purpose
4 of facilitating one of the following activities:

5 “(1) Military testing, operations, training, or
6 other military readiness activity (as defined in sec-
7 tion 315(f) of Public Law 107–314; 16 U.S.C. 703
8 note).

9 “(2) Military construction.

10 “(c) TREATMENT AND AVAILABILITY OF AMOUNTS
11 FOR CONSERVATION BANKING.—Payments made under
12 subsection (a) to a conservation banking program or ‘in-
13 lieu-fee’ mitigation sponsor for the purpose of facilitating
14 military construction may be treated as eligible costs of
15 the military construction project. Amounts appropriated
16 to carry out the military construction project and intended
17 to be used for such payments shall remain available for
18 obligation without fiscal year limitation.”.

19 (b) CLERICAL AMENDMENT.—The table of sections
20 at the beginning of such chapter is amended by inserting
21 after the item relating to section 2694b the following new
22 item:

“2694c. Participation in conservation banking programs.”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall take effect on October 1, 2008.