

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 455

To clarify the procedures for consultation under the Endangered Species Act on management plans for, and specific activities on, Federal lands, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 16 (legislative day, JANUARY 30), 1995

Mr. KEMPTHORNE (for himself and Mr. CRAIG) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To clarify the procedures for consultation under the Endangered Species Act on management plans for, and specific activities on, Federal lands, and for other purposes.

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. SHORT TITLE.**

4 This Act may be referred to as the “Consultation  
5 Clarification Act”.

6 **SEC. 2. CLARIFICATION.**

7 Notwithstanding any other provision of law, whenever  
8 the listing of a species, or other procedure or decision re-  
9 lated to a species listed under section 4(c)(1) of the En-

1 endangered Species Act of 1973 (16 U.S.C. 1533(c)(1)), re-  
2 quires consultation under section 7 of such Act (16 U.S.C.  
3 1536) on a resource management plan, or an amendment  
4 thereto or revision thereof, prepared pursuant to 43  
5 U.S.C. 1712 or 16 U.S.C. 1604, any action as defined  
6 in subsection (a)(2) of such section 7 which is consistent  
7 with such plan may be undertaken on such lands prior  
8 to the completion of such consultation if, pursuant to the  
9 consultation procedures of such section 7, and related reg-  
10 ulations, the land management agency responsible for  
11 such action determines or has determined that such ac-  
12 tion—

13 (1) is not likely to affect such species; or

14 (2) is not likely to adversely affect such species,  
15 and the Secretary of the Interior or Secretary of  
16 Commerce, as appropriate, concurs; or

17 (3) is likely to adversely affect such species, and  
18 the appropriate Secretary issues a biological opinion  
19 on such action which finds that the action either (i)  
20 is not likely to jeopardize such species or result in  
21 destruction or adverse modification of its critical  
22 habitat, or (ii) is unlikely to jeopardize such species  
23 or result in destruction or adverse modification of its  
24 critical habitat and the land management agency

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- 1 agrees to a reasonable and prudent alternative to
- 2 such action.

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