

105TH CONGRESS  
1ST SESSION

# H. R. 1155

To exempt certain maintenance, repair, and improvement of flood control facilities in California from the Endangered Species Act of 1973 during the flood emergency period.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 1997

Mr. FAZIO of California (for himself, Mr. DOOLEY of California, and Mr. CONDIT) introduced the following bill; which was referred to the Committee on Resources

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## A BILL

To exempt certain maintenance, repair, and improvement of flood control facilities in California from the Endangered Species Act of 1973 during the flood emergency period.

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 cited as the “California Floods  
5       Emergency Repair Act of 1997”.

6       **SEC. 2. FINDINGS.**

7       The Congress finds the following:

1           (1) There occurred a significant flood event in  
2 California in December 1996 and January 1997.

3           (2) That event resulted in 9 deaths, displaced  
4 100,000 Californians from their homes, and caused  
5 an estimated \$2,000,000,000 in damage to homes  
6 and other property.

7           (3) That event also caused agricultural losses  
8 exceeding \$150,000,000, national forest losses ex-  
9 ceeding \$100,000,000, and extensive damage to Yo-  
10 semite National Park.

11           (4) President Clinton declared a major disaster  
12 for California and ordered Federal emergency assist-  
13 ance to help meet the immediate needs of people and  
14 communities hit hard by the ongoing severe storms,  
15 flooding, and mudslides and landslides that began on  
16 December 28, 1996, designating 44 California coun-  
17 ties for such assistance.

18 **SEC. 3. EXEMPTION OF CERTAIN CALIFORNIA FLOOD CON-**  
19 **TROL FACILITY MAINTENANCE, REPAIR, AND**  
20 **IMPROVEMENT FROM ENDANGERED SPECIES**  
21 **ACT OF 1973.**

22           (a) EXEMPTION.—The Endangered Species Act of  
23 1973 (16 U.S.C. 1531 et seq.) shall not apply to—

24           (1) any maintenance or repair of a covered  
25 flood control facility that—

1 (A) is necessary to correct a condition  
2 that—

3 (i) threatens the integrity of the facil-  
4 ity; and

5 (i) was caused by the significant flood  
6 event that occurred in California in De-  
7 cember 1996 and January 1997; and

8 (B) is carried out under authority provided  
9 by a law listed in subsection (b);

10 (2) any improvement to a covered flood control  
11 facility that—

12 (A) is necessary to correct an inadequacy  
13 of the facility that was revealed by the signifi-  
14 cant flood event that occurred in California in  
15 December 1996 and January 1997; and

16 (B) is carried out under authority provided  
17 by a law listed in subsection (b); or

18 (3) any maintenance, repair, or improvement of  
19 a covered flood control facility that is determined, by  
20 a comprehensive study of California flood control fa-  
21 cilities conducted by the Corps of Engineers or any  
22 other Federal agency, Federal task force, or joint  
23 Federal-State task force empowered to conduct such  
24 a comprehensive study, to be necessary to repair or

1 replace damaged facilities to substantially the same  
2 condition that existed before December 28, 1996.

3 (b) AUTHORIZING LAWS.—The laws referred to in  
4 subsection (a) (1)(B) and (2)(B) are the following:

5 (1) Section 5 of the Flood Control Act of Au-  
6 gust 18, 1941 (55 Stat. 650; 33 U.S.C. 701n).

7 (2) The Robert T. Stafford Disaster Relief and  
8 Emergency Assistance Act (42 U.S.C. 5121 et seq.).

9 (3) The Reclamation Safety of Dams Act of  
10 1978 (43 U.S.C. 596 et seq.).

11 (4) The emergency watershed protection pro-  
12 gram conducted under section 7 of the Flood Con-  
13 trol Act of June 28, 1938 (52 Stat. 1225; 33 U.S.C.  
14 701b–1) and sections 403 through 405 of the Act of  
15 August 4, 1978 (92 Stat. 434; 16 U.S.C. 2203–  
16 2205).

17 (c) COVERED FLOOD CONTROL FACILITY DE-  
18 FINED.—In this section, the term “covered flood control  
19 facility” means a flood control facility, including any weir,  
20 channel, levee, or bypass, that serves a public purpose.

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