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Stringent ESA rules hamper repair of levees

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Protecting public safety is more important than protecting endangered species, proponents of a congressional bill testified during a unique hearing at the California state capitol last week.

Supporters argued that the federal Endangered Species Act of 1973 should be modified so that it does not delay the repair and maintenance of levees in flood-prone California.

The congressional Committee on Resources listened to citizens' testimony via satellite regarding House Resolution 478, proposed by California GOP Reps. Wally Herger of Chico and Richard Pombo of Tracy.

Farmers and water-control officials contend that stringent ESA rules delay the repair of the levees--for several years in some cases--and consequently threaten the lives of citizens.

Environmental interests said that modifying the ESA is not the answer, and that the permanent solution is to reform federally based floodplain management to prevent further development of the floodplain, which would, in turn, protect lives and preserve prime agricultural land.

Proponents of H.R. 478 argued that the ESA rules go too far, putting the safety of animals, plants and insects above humans.

Brent Haste, county supervisor of Yuba County, and a proponent of the measure, said "Overzealous government regulators have lost sight of their intended purpose, and have dictated that their primary purpose will be wildlife habitat. This often has delayed, increased the cost, restricted, and in some cases stopped needed maintenance activity."

Existing ESA regulations require that studies must be conducted to determine if levee maintenance will infringe on the habitat of endangered species such as the valley longhorn elderberry beetle, an insect that has never been found north of Stockton, but which led to levee repair delays in the Marysville/Yuba City area.

Under existing policies, the government allows emergency work to repair levees during disasters without endangered species reviews until after the work is completed. Proponents argued that exemptions from the ESA are needed that allow levee repairs to be made before the next big flood, not just during an emergency situation.

"I think most farmers support the original intentions of the act," said Norm Yenni, manager of Sears Point Farming Company in Sonoma and former president of the Sonoma County Farm Bureau. "What I object to is the exploitation of the law."

"A lot of what we do as farmers relies on common sense. Federal regulations should be based on common sense as well. I believe the American public feels the same way." In his opinion, "Passage of H.R. 478 will help to put some common sense back and credibility back into the Endangered Species Act."

"These regulations are an absolute recipe for disaster," said Christopher Lee, a trustee for Reclamation District 556 in Walnut Grove and a Delta-area farmer. He said these measures do not take responsibility for the safety of the people behind the levees.

Environmental studies are not the only reason for delays; some people simply cannot afford the mitigation that is required by the U.S. Fish and Wildlife Service. Mitigation involves replacing destroyed habitat by creating a new habitat in a different location.

In Yuba City, a 76-acre peach orchard was replaced with elderberry bushes at a cost of \$1.9 million.

Opponents believe amending the ESA is not the answer. Deputy Interior Secretary John Garamendi said the ESA has been wrongly blamed for the levee breaks. He and a California geologist warned the committee that allowing flood-control work to go on unimpeded would not solve the Central Valley's problems.

Jeffrey Mount, a geology professor at the University of California, Davis, said the dams and levee systems lull people into a false sense of security, which leads to additional development of the floodplain, and ultimately ensures "an ever-escalating cycle of flood engineering and flood damages."

He said "The most important step that the committee can take is to bolster mechanisms that compel development to stay out of harm's way." Such mechanisms include creating bypasses, which increase flood storage, prevent land development and support farming.

"The Sutter and Yolo bypass systems on the Sacramento River remain a model for modern flood management techniques," said Mount, noting that the system is only used during very high discharge events on the Sacramento River, and farmed the rest of the time. He added that the lower San Joaquin River would benefit from creating a bypass system.

Mount said that the Federal Emergency Management Agency needs to redefine the 100-year floodplain, because it does not encompass all the flood-prone land. "The current FEMA-supported approach of designating an ill-defined, 100-year flood plain exacerbates our bad choices by actually inducing development of the floodplain and concentrating populations at risk."

The measure is scheduled to go before the U.S. House of Representatives for a vote later this year.

The congressional hearing via satellite hook-up was the first time congressmen were able to hold a hearing without requiring that citizens travel to the nation's capital to participate in it. "It's an opportunity for us to have a voice in the decisions that are made back in Washington, D.C.," said Bruce Blodgett, CFBF Director of National Affairs and Research.

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