H. R. 5831

To direct the Secretary of the Army to undertake a comprehensive review of the Corps of Engineers policy guidelines on vegetation management for levees, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 18, 2012

Ms. MATSUI (for herself, Mr. GARAMENDI, Mr. GEORGE MILLER of California, Mrs. NAPOLITANO, Mr. DANIEL E. LUNGREN of California, Mr. GARY G. MILLER of California, Mr. CALVERT, Ms. ZOE LOFGREN of California, Ms. SPEIER, Mrs. CAPPS, Mr. THOMPSON of California, Mr. WAXMAN, Mr. HONDA, Ms. ESHOO, Ms. HAHN, Ms. CHU, Ms. WOOLSEY, Mr. MCNERNEY, Mr. BACA, Ms. LINDA T. SÁNCHEZ of California, Ms. ROYBAL-ALLARD, Mr. CARDOZA, Mr. COSTA, Ms. LEE of California, Mr. BERMAN, Mr. FARR, Mr. SCHIFF, Ms. BASS of California, Mr. STARK, Mrs. DAVIS of California, and Ms. LORETTA SÁNCHEZ of California) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To direct the Secretary of the Army to undertake a comprehensive review of the Corps of Engineers policy guidelines on vegetation management for levees, 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,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Levee Vegetation Review Act of 2012”.

SEC. 2. FLOOD CONTROL POLICY.

(a) REVIEW.—In order to determine whether current Federal policy relating to levee vegetation is appropriate for all regions of the United States, the Secretary of the Army shall undertake a comprehensive review of the Corps of Engineers policy guidelines on vegetation management for levees (in this section referred to as the “guidelines”). The Secretary shall commence the review not later than 6 months after the date of enactment of this Act.

(b) FACTORS.—

(1) IN GENERAL.—In conducting the review, the Secretary shall examine the guidelines in view of—

(A) the varied interests and responsibilities in managing flood risks, including the need to provide the greatest levee safety benefit with limited resources;

(B) preserving, protecting, and enhancing natural resources, including the potential benefit that vegetation on levees can have in providing habitat for species of concern;

(C) protecting the rights of Native Americans pursuant to treaties and statutes; and
(D) such other factors as the Secretary considers appropriate.

(2) **REGIONAL AND WATERSHED CONSIDERATIONS.**—In conducting the review, the Secretary shall specifically consider factors that promote and allow for consideration of potential variances from national guidelines on a regional or watershed basis. Such factors may include regional or watershed soil conditions, hydrologic factors, vegetation patterns and characteristics, environmental resources, levee performance history, institutional considerations, and other relevant factors. The scope of a variance approved by the Secretary may include an exemption to national guidelines where appropriate.

(c) **COOPERATION AND CONSULTATION; RECOMMENDATIONS.**—

(1) **IN GENERAL.**—The review shall be undertaken in cooperation with interested Federal agencies and in consultation with interested representatives of State and local governments, Native American Indian tribes, appropriate nongovernmental organizations, and the public.

(2) **RECOMMENDATIONS.**—Corps of Engineers Regional Integration Teams, representing districts, divisions, and headquarters, in consultation with
State and Federal resources agencies, and with participation by local agencies, shall recommend to the Chief of Engineers vegetation management policies for levees that conform with State and Federal laws and other applicable requirements.

(d) Peer Review.—

(1) Views of National Academy of Engineering.—As part of the review, the Secretary shall solicit and consider the views of the National Academy of Engineering on the engineering, environmental, and institutional considerations underlying the guidelines.

(2) Availability of Views.—The views of the National Academy of Engineering obtained under paragraph (1) shall be—

(A) made available to the public; and

(B) included in supporting materials issued in connection with the revised guidelines required under subsection (e).

(e) Revision of Guidelines.—

(1) In General.—Not later than 2 years after the date of enactment of this Act, the Secretary shall—
(A) revise the guidelines based on the results of the review, including the results of the peer review conducted under subsection (d); and

(B) submit to Congress a report that contains a summary of the activities of the Secretary and a description of the findings of the Secretary under this section.

(2) CONTENT; INCORPORATION INTO MANUAL.—The revised guidelines shall—

(A) provide a practical process for approving regional or watershed variances from the national guidelines, reflecting due consideration of measures to maximize public safety benefits with limited resources, regional climatic variations, environmental quality, implementation challenges, and allocation of responsibilities; and

(B) be incorporated into the manual proposed under section 5(c) of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved August 18, 1941 (33 U.S.C. 701n(e)).

(f) CONTINUATION OF WORK.—Concurrent with completion of the requirements of this section, the Sec-
retary shall proceed without interruption or delay with those ongoing or programmed projects and studies, or elements of projects or studies, that are not directly related to vegetation variance policy.