

107TH CONGRESS
2D SESSION

H. R. 4926

To authorize the Secretary of the Army to participate in ecosystem restoration of the San Francisco Bay estuary, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 2002

Mr. THOMPSON of California (for himself, Ms. WOOLSEY, Mr. GEORGE MILLER of California, Ms. PELOSI, Mrs. TAUSCHER, Mr. FARR of California, Ms. LOFGREN, Mr. LANTOS, Ms. LEE, Ms. ESHOO, and Mr. STARK) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To authorize the Secretary of the Army to participate in ecosystem restoration of the San Francisco Bay estuary, 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 cited as the “San Francisco Bay
5 Estuary Ecosystem Restoration Act of 2002”.

1 **SEC. 2. SAN FRANCISCO BAY ESTUARY ECOSYSTEM RES-**
2 **TORATION.**

3 (a) IN GENERAL.—The Secretary of the Army, acting
4 through the Chief of Engineers, may participate in critical
5 restoration projects in the area of the San Francisco Bay
6 estuary, California, and adjacent waters, including all wa-
7 tersheds that drain directly into San Francisco Bay.

8 (b) PROJECT SELECTION.—

9 (1) IN GENERAL.—The Secretary may identify
10 critical restoration projects in the area described in
11 subsection (a) based on—

12 (A) recommendations of the Army Corps of
13 Engineers under the San Pablo Bay watershed
14 restoration program, including recommenda-
15 tions based on analyses conducted by Federal
16 or non-Federal interests before the date of en-
17 actment of this Act;

18 (B) recommendations of the California De-
19 partment of Fish and Game consistent with the
20 waterfowl habitat objectives of the Central Val-
21 ley Habitat Joint Venture Implementation
22 Plan; or

23 (C) other studies to determine the feasi-
24 bility of carrying out the critical restoration
25 projects.

1 (2) CRITERIA AND PROCEDURES FOR REVIEW
2 AND APPROVAL.—

3 (A) IN GENERAL.—The Secretary may de-
4 velop criteria and procedures for prioritizing
5 projects identified under paragraph (1).

6 (B) CONSISTENCY WITH SAN PABLO BAY
7 WATERSHED RESTORATION PROGRAM.—The cri-
8 teria and procedures developed under subpara-
9 graph (A) shall be consistent, to the maximum
10 extent practicable, with the criteria and proce-
11 dures for evaluating projects established under
12 the San Pablo Bay watershed restoration pro-
13 gram and outlined in the San Pablo Bay Wa-
14 tershed Restoration Framework Program Final
15 Report, prepared for the Army Corps of Engi-
16 neers and the State of California Coastal Con-
17 servancy, dated November 2000.

18 (C) CONSISTENCY WITH CENTRAL VALLEY
19 HABITAT JOINT VENTURE IMPLEMENTATION
20 PLAN.—The criteria and procedures developed
21 under subparagraph (A) shall also be con-
22 sistent, to the maximum extent practicable,
23 with the objectives and criteria for evaluating
24 projects established under the Central Valley
25 Habitat Joint Venture Implementation Plan

1 prepared under the North American Waterfowl
2 Management Plan, dated February 1990. Such
3 projects may include the beneficial reuse of
4 dredged material to restore exterior and interior
5 levees, the installation of fish screens, and habi-
6 tat enhancement critical to the management of
7 seasonal and permanent waterfowl habitats on
8 the Grizzly Island Wildlife Area in the Suisun
9 Marsh.

10 (D) USE OF EXISTING STUDIES AND
11 PLANS.—In carrying out subparagraph (A), the
12 Secretary shall use, to the maximum extent
13 practicable, studies and plans in existence on
14 the date of enactment of this Act to identify
15 project needs and priorities.

16 (3) LOCAL PARTICIPATION.—In prioritizing
17 projects for implementation under this section, the
18 Secretary shall consult with, and consider the prior-
19 ities of, public and private entities that are active in
20 watershed planning and ecosystem restoration in
21 San Francisco Bay estuary watersheds, including
22 nonprofit organizations, watershed planning coun-
23 cils, and resource conservation districts.

24 (c) IMPLEMENTATION.—The Secretary may carry out
25 projects identified under subsection (a) after entering into

1 an agreement with an appropriate non-Federal interest in
2 accordance with section 221 of the Flood Control Act of
3 1970 (42 U.S.C. 1962d–5b) and this section.

4 (d) NON-FEDERAL INTEREST.—Notwithstanding the
5 requirements of section 221 of the Flood Control Act of
6 1970 (42 U.S.C. 1962d–5b), a nonprofit entity may serve,
7 with the consent of the affected local government, as a
8 non-Federal sponsor for a project undertaken pursuant to
9 this section.

10 (e) COST SHARING.—

11 (1) IN GENERAL.—Before carrying out any
12 project under this section, the Secretary shall enter
13 into a binding agreement with the non-Federal inter-
14 est that shall require the non-Federal interest—

15 (A) to pay 35 percent of the total cost of
16 the project;

17 (B) to provide any lands, easements,
18 rights-of-way, dredged material disposal areas,
19 and relocations necessary to carry out the
20 project; and

21 (C) to pay 100 percent of the operation,
22 maintenance, repair, replacement, and rehabili-
23 tation costs associated with the project.

24 (2) NON-FEDERAL SHARE.—

1 (A) IN GENERAL.—The non-Federal share
2 of the costs of the project may be provided in
3 cash or in the form of services, materials, sup-
4 plies, or other in-kind contributions.

5 (B) CREDIT.—The Secretary shall credit
6 the non-Federal interest—

7 (i) for the value of any lands, ease-
8 ments, rights-of-way, dredged material dis-
9 posal areas, or relocations provided for car-
10 rying out the project;

11 (ii) funds received from the CALFED
12 Bay-Delta Program; and

13 (iii) the cost of the design and con-
14 struction work carried out by the non-Fed-
15 eral interest before the date of execution of
16 a cooperation agreement for the project if
17 the Secretary determines that the work is
18 integral to the project.

19 (f) PRESERVATION OF EXISTING SUISUN MARSH
20 HABITAT TYPES.—Consistent with habitat objectives of
21 the Central Valley Habitat Joint Venture Implementation
22 Plan under the North American Waterfowl Management
23 Plan, funds appropriated to carry out this section shall
24 not be used to convert more than 10 percent of existing

1 Suisun Marsh seasonal and permanent wetland habitat
2 types to tidal or other wetland types.

3 (g) DEFINITION.—For purposes of this section, the
4 term “critical restoration project” means a project (in-
5 cluding a project under the CALFED Bay-Delta program)
6 that will produce immediate and substantial ecosystem
7 restoration, preservation, and protection benefits.

8 (h) AUTHORIZATION OF APPROPRIATIONS.—There is
9 authorized to be appropriated to carry out this section
10 \$50,000,000, of which up to \$20,000,000 shall be made
11 available to critical restoration projects carried out under
12 this section in the San Pablo Bay watershed and up to
13 \$10,000,000 shall made available to critical restoration
14 projects carried out under this section on the Grizzly Is-
15 land Wildlife Area in the Suisun Marsh. Not more than
16 \$10,000,000 may be used to carry out any single critical
17 restoration project.

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