

Committee on Resources

Witness Testimony

Testimony
Presented by
Rob Frost, 2nd Vice President
California Cattlemen's Association
Before The
U.s. House Committee on Resources
Re: H.R. 478
"The Flood Prevention & Family Protection Act of 1997"
April 10, 1997

Thank you members of the Committee. My name is Rob Frost. I own Frost Farms, a cattle and trucking business in Santa Paula, Ventura County, California. I am currently serving as a Second Vice President of the California Cattlemen's Association (CCA) and am here today representing that organization as well as landowners along the Santa Clara River who have suffered severe flood damage.

The CCA is a non-profit organization which has over 3,000 members and has represented the state's beef cattle producers in legislative and regulatory affairs since 1917. Our members own, control or manage approximately 38 million acres of California's 100 million acres. On the land we control, we house a majority of the state's wildlife and plant species and correspondingly the greatest percentage and number of the state's endangered and threatened species which are subject to the Endangered Species Act (ESA).

My testimony today serves to call attention to two issues: 1) The dilemma which I and other landowners along the Santa Clara River have experienced due to the lack of flood control measures to protect public and private property; and 2) the dilemma which ranchers and other landowners throughout California face due to agency permitting requirements that restrict our ability to repair or restore property other than just levees and other flood control projects damaged or destroyed by flooding and other natural disasters. In both cases, the dilemma is the direct result of the federal government's enforcement of the ESA which has taken a severe toll on the ability of landowners to protect their property and their livelihoods in order to minimize or eliminate severe economic losses caused by flooding.

In 1992, 1993, 1994 and some years before, flooding took private land out of agricultural production in Ventura County because government agencies would not maintain the pilot channel in the Santa Clara River. In the flooding during January, 1995 alone, agricultural producers along the river suffered severe economic losses because of the unwillingness of the U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service to recognize the flood control problems and expedite solutions. Many producers lost hundreds of acres of crops and land - a permanent loss of 20 to 100 feet of soil depth in each case and the irrigation system that went with them due to torrential rains which caused the river to shift course on a four-mile stretch and rip away nearly \$2 million worth of crops and land (refer to the Sacramento Bee newspaper article attached to your copy of my testimony). In addition, at least two oil wells and oil lines were at immediate risk, a natural gas line was ruptured and destroyed twice, and utility lines were downed, creating tremendous risk to lives and property.

Those landowners who requested help and had limited financial resources were denied permission to expedite repairs on their property to prevent further flooding and restore what was damaged. Those landowners with adequate financial resources were allowed to take immediate action for restoration efforts but only because they could financially commit to the unreasonable mitigation procedures and demands of the agencies.

For many years, not less than 70, the local flood control agencies contracted out pilot channel excavations to small contractors and owner/operators of earthmoving equipment. Simply put, these contractors and equipment companies maintained a pilot channel in the river so flood waters would stay in the center of the streambed, thus preventing flooding during seasonal heavy rainfall. During the same period, there were numerous sand and gravel mining operations in the river at various locations that served two purposes: To provide an economic advantage for aggregate to be used for roads and highways in the area at a reasonable price and secondly, it removed unwanted silt buildup in the river. Today, because of the agencies' regulatory enforcement under the ESA, Ventura County does not have sufficient quantities of aggregate to economically serve its needs.

We fully support H.R. 478 and commend Congressmen Herger and Pombo for their efforts. However, I would like to briefly describe the second dilemma which ranchers and other landowners face when property is damaged or destroyed by natural disasters and hope that the sponsors of the bill and the committee will at least consider a solution to the problem either through an amendment to H.R. 478 or through some other legislative vehicle. While H.R. 478 is a major step toward bringing relief to people and communities who have been victimized by flooding, we would draw your attention to the fate of other property that can succumb to devastation and is badly in need of ESA and permitting relief. In many cases on private property, ranchers must have the ability to act quickly to repair bridges, culverts and roads that can impair provisions for food, water and safety for livestock; and remove fallen trees and debris from river banks or stream channels which may obstruct water flows and endanger livestock as well as threaten homes and outbuildings. In many other cases, depending on the severity of the flooding or other disaster and the physical characteristics of the land, ranchers are unable to take immediate steps to repair their property. In the case of flooding, landowners may have to wait months for the water to subside before undertaking repair and restoration work. It can cause significant environmental damage and risk to human life for a landowner to prematurely move a bulldozer in to clear streams of unwanted debris or to move soil to replace washed-out roads and streambanks. We would respectfully request that the committee give serious consideration to providing "take" exemptions from penalty under the ESA or other environmental laws for landowners who only seek to replace or restore their property to the state in which it existed immediately prior to a natural disaster and that such exemptions, if applied for by the landowner, have a minimum lifetime of 12 months for those landowners who cannot act immediately due to the elements.

In closing, natural disasters can take a significant financial toll on the investment we have in our businesses, our ranches, our homes. Property owners who have gone through the trauma associated with having their property destroyed and lives disrupted should not be further burdened with expensive permitting and delay processes.

Thank you for this opportunity to testify. I would be happy to answer any questions.

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