

108TH CONGRESS  
1ST SESSION

# H. R. 835

To provide for enhanced collaborative forest stewardship management within the Clearwater and Nez Perce National Forests in Idaho, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2003

Mr. OTTER (for himself and Mr. SIMPSON) introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To provide for enhanced collaborative forest stewardship management within the Clearwater and Nez Perce National Forests in Idaho, 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 “Clearwater Basin  
5 Project Act”.

6       **SEC. 2. FINDINGS AND DEFINITIONS.**

7       (a) FINDINGS.—Congress finds the following:

1           (1) Elk populations within the Clearwater  
2 Basin in the State of Idaho have diminished dras-  
3 tically, in part because of lack of forage and habitat  
4 within the Clearwater and Nez Perce National For-  
5 ests.

6           (2) Populations of salmon and steelhead within  
7 the Clearwater Basin are listed as endangered or  
8 threatened, and restoration and protection of habitat  
9 within the Clearwater and Nez Perce National For-  
10 ests will assist the recovery of these species.

11          (3) The Red and American River drainages  
12 within the Clearwater Basin are experiencing large  
13 forest insect infestations and fuel loads that increase  
14 the risk of catastrophic fire and extensive destruc-  
15 tion of fish, wildlife, and other forest ecosystem and  
16 community values.

17          (4) Other Clearwater and Nez Perce National  
18 Forest areas within the Clearwater Basin present  
19 similar issues that are related to forest conditions  
20 outside the historic range of variability and other  
21 factors.

22          (5) Communities within the Clearwater Basin  
23 are dependent upon sustainable, healthy forest con-  
24 ditions for employment and other economic benefits,  
25 protection of property, and quality of life.

1           (6) The Clearwater Basin is an area of signifi-  
2           cant importance to the Nez Perce Tribe and mem-  
3           bers of that Tribe continue to exercise treaty-re-  
4           served hunting and fishing rights in the Basin.

5           (7) In order to protect and improve habitat for  
6           elk, salmon, steelhead and other key fish and wildlife  
7           species, reduce threats of catastrophic fire, and  
8           achieve other forest stewardship objectives, there is  
9           a need for vegetation treatments and other restora-  
10          tion and enhancement actions on National Forest  
11          System land in the Clearwater Basin.

12          (8) A pilot project, in which an advisory group  
13          and the Forest Service engage with the Nez Perce  
14          Tribe and other interested parties to identify and  
15          complete high priority activities through a collabo-  
16          rative approach, will address a compelling need to  
17          improve ecosystem health for fish, wildlife, and other  
18          community values and complement existing manage-  
19          ment of the Clearwater and Nez Perce National For-  
20          ests.

21          (b) DEFINITIONS.—In this Act:

22                (1) The terms “Clearwater Advisory Panel”  
23                and “CAP” mean the advisory group established by  
24                the Secretary under section 3.

1           (2) The terms “Clearwater Basin Pilot Project”  
2           and “pilot project” mean the pilot project for certain  
3           National Forest System lands in the Clearwater  
4           Basin authorized by section 4.

5           (3) The term “pilot project area” means the  
6           area described in section 4(a) in which the pilot  
7           project will be conducted.

8           (4) The term “Secretary” means the Secretary  
9           of Agriculture.

10          (5) The term “stewardship contract” means a  
11          contract to achieve land management goals for Na-  
12          tional Forest System lands that meet local and rural  
13          community needs, as further described in section  
14          347 of the Department of the Interior and Related  
15          Agencies Appropriations Act, 1999 (as contained in  
16          section 101(e) of division A of Public Law 105–277;  
17          16 U.S.C. 2104 note).

18          (6) The term “stewardship objectives” means  
19          objectives that enhance forest ecosystems, and re-  
20          store and improve land health and water quality,  
21          such as—

22                 (A) road, trail, and infrastructure mainte-  
23                 nance or obliteration;

24                 (B) soil productivity improvement;

- 1 (C) improvements in forest ecosystem
- 2 health;
- 3 (D) watershed restoration and mainte-
- 4 nance;
- 5 (E) restoration, maintenance and improve-
- 6 ment of wildlife and fish habitat;
- 7 (F) control of noxious weeds; and
- 8 (G) reestablishment of native species.

9 **SEC. 3. CLEARWATER ADVISORY PANEL.**

10 (a) ESTABLISHMENT AND PURPOSE.—The Secretary  
11 shall establish an advisory group, to be known as the  
12 “Clearwater Advisory Panel”, for the purpose of improv-  
13 ing collaborative relationships and providing advice and  
14 recommendations to the Forest Service regarding the  
15 Clearwater Basin pilot project and activities under the  
16 pilot project, as authorized by and consistent with this  
17 Act.

18 (b) DUTIES.—The CAP shall—

- 19 (1) review and make recommendations to the
- 20 Forest Service regarding activities proposed for high
- 21 priority implementation as part of the pilot project
- 22 under this Act;
- 23 (2) provide early and continuous coordination
- 24 with appropriate Forest Service and other agency of-

1 officials in reviewing and recommending activities for  
2 high priority implementation under this Act;

3 (3) provide frequent opportunities for citizens,  
4 organizations, tribes, agencies, and other interested  
5 parties to participate openly and meaningfully, be-  
6 ginning at the early stages of the activity schedule  
7 development process under this Act.

8 (c) APPOINTMENT OF MEMBERS.—

9 (1) APPOINTMENT AND TERM.—Consistent with  
10 subsection (d), the Secretary shall appoint the mem-  
11 bers of the CAP. A member of the CAP shall serve  
12 for a term of three years beginning on the date of  
13 appointment. The Secretary may reappoint members  
14 to subsequent three-year terms.

15 (2) INITIAL APPOINTMENT.—The Secretary  
16 shall make initial appointments to the CAP not later  
17 than 90 days after the date of the enactment of this  
18 Act.

19 (3) VACANCIES.—The Secretary shall make ap-  
20 pointments to fill vacancies on the CAP as soon as  
21 practicable after the vacancy has occurred.

22 (4) COMPENSATION.—Members of the CAP  
23 shall serve without compensation.

24 (d) COMPOSITION.—

1           (1) NUMBER.—The CAP shall be comprised of  
2   15 members.

3           (2) COMMUNITY INTERESTS REPRESENTED.—  
4   Committee members shall be representative of the  
5   interests of the following three categories:

6           (A) Five persons who—

7                 (i) represent organized labor;

8                 (ii) represent developed outdoor recre-  
9                 ation, off highway vehicle users, or com-  
10                mercial recreation activities;

11               (iii) represent energy and mineral de-  
12                velopment interests;

13               (iv) represent the commercial timber  
14                industry; or

15               (v) hold Federal grazing permits, or  
16                other land use permits within the pilot  
17                project area.

18           (B) Five persons representing—

19               (i) nationally recognized environ-  
20                mental organizations;

21               (ii) regionally or locally recognized en-  
22                vironmental organizations;

23               (iii) dispersed recreational activities;

24               (iv) archeological and historical in-  
25                terests; or

1 (v) nationally or regionally recognized  
2 fish and wildlife interest groups.

3 (C) Five persons who—

4 (i) hold State elected office or their  
5 designee;

6 (ii) hold county or local elected office;

7 (iii) represent Indian Tribes within or  
8 adjacent to the pilot project area;

9 (iv) are school officials or teachers; or

10 (v) represent the affected public at  
11 large.

12 (3) BALANCED REPRESENTATION.—The Sec-  
13 retary shall provide for balanced and broad rep-  
14 resentation from within each category described in  
15 paragraph (2).

16 (4) GEOGRAPHIC DISTRIBUTION.—The mem-  
17 bers of the CAP shall reside within the State of  
18 Idaho and, to the extent practicable, within or adja-  
19 cent to the pilot project area.

20 (e) APPROVAL PROCEDURES.—

21 (1) ESTABLISHMENT.—Subject to paragraph  
22 (2) and the other requirements of this Act, the CAP  
23 shall establish procedures for proposing, developing,  
24 and reviewing activities and schedules for rec-  
25 ommendation to the Forest Service for approval and



1 implementation under the pilot project. A quorum  
2 must be present to constitute an official meeting of  
3 the CAP.

4 (2) MAJORITY VOTE.—An activity or schedule  
5 may be recommended by the CAP to the applicable  
6 Forest Supervisor for approval and implementation  
7 under the pilot program if it has been approved by  
8 a majority of CAP members from each of the three  
9 categories described in subsection (d)(2).

10 (f) OTHER AUTHORITIES AND REQUIREMENTS.—

11 (1) STAFF ASSISTANCE.—The CAP may submit  
12 to the Secretary a request for staff assistance from  
13 Federal employees under the jurisdiction of the Sec-  
14 retary.

15 (2) MEETINGS.—All meetings of the CAP shall  
16 be announced at least one week in advance in a local  
17 newspaper of record and shall be open to the public.

18 (3) RECORDS.—The CAP shall maintain  
19 records of the meetings of the panel and make the  
20 records available for public inspection.

21 (4) CHAIRPERSON.—A majority on the CAP  
22 shall select the chairperson of the CAP.

23 **SEC. 4. CLEARWATER BASIN PILOT PROJECT.**

24 (a) PILOT PROJECT REQUIRED.—The Secretary shall  
25 conduct a pilot project under this section, to be known

1 as the “Clearwater Basin pilot project”, on those National  
2 Forest System lands encompassed by the North Fork,  
3 Powell, and Lochsa Ranger Districts of the Clearwater  
4 National Forest in the State of Idaho, and the Red River/  
5 Elk City, Moose Creek and Clearwater Ranger Districts  
6 of the Nez Perce National Forest in the State of Idaho.

7 (b) ROLE OF CAP.—The CAP shall review and rec-  
8 ommend activities for high priority implementation within  
9 the pilot project area that are authorized under this Act,  
10 according to the requirements of this Act.

11 (c) AUTHORIZED ACTIVITIES.—The CAP may rec-  
12 ommend activities for which funding is authorized and ap-  
13 propriated under this Act or other law. The activities that  
14 the CAP recommends for implementation under the pilot  
15 project shall be those activities that the CAP determines  
16 are high priority to implement stewardship objectives.

17 (d) STEWARDSHIP CONTRACTS.—A total of four  
18 stewardship contracts may be entered into as part of the  
19 pilot project. The stewardship contracts shall be divided  
20 equally between the two national forests referred to in sub-  
21 section (a). These contracts are in addition to any stew-  
22 ardship contracts authorized under any other law.

23 (e) ACTIVITY SCHEDULES.—

24 (1) DEVELOPMENT.—Within two years after  
25 the date of the enactment of this Act, the CAP shall

1 develop and submit for Forest Supervisor review  
2 schedules of high priority activities to be commenced  
3 within the pilot project area for the ensuing five-year  
4 period. Separate schedules shall be developed for the  
5 Clearwater National Forest portion of the pilot  
6 project area and the Nez Perce National Forest por-  
7 tion of the pilot project area. Thereafter, the CAP  
8 shall develop and submit in advance schedules for  
9 subsequent following five-year periods.

10 (2) CONSULTATION.—The CAP shall prepare  
11 the schedules in consultation with, and with tech-  
12 nical assistance from, the applicable Forest Super-  
13 visor. The CAP shall also consult with the Nez  
14 Perce Tribe in developing and recommending each  
15 five-year schedule. The Forest Service shall consult  
16 with the Tribe to assure that the activities in the  
17 schedule are consistent with treaty and any other  
18 obligations to the Tribe.

19 (3) CONTENT.—Each five-year schedule shall  
20 be in sufficient detail to describe the high priority  
21 activities to be conducted in the pilot project area  
22 over the five-year period and the timing for their im-  
23 plementation, and to allow reasonable site-specific,  
24 project level evaluation of their environmental ef-  
25 fects. The scope of the activities included in each

1 schedule shall be reasonably adjusted to the extent  
2 that the CAP and applicable Forest Supervisor de-  
3 termine necessary to allow such evaluation to be  
4 completed within the time periods provided by this  
5 Act.

6 (4) CONSISTENCY WITH FOREST PLAN.—The  
7 activities included within the five-year schedules  
8 shall be consistent with the applicable forest land  
9 and resource management plan. The schedule may  
10 include any amendment of the applicable forest land  
11 and resource management plan that the CAP rec-  
12 ommends or that the applicable Forest Supervisor  
13 determines is necessary to allow or facilitate imple-  
14 mentation of one or more activities in the schedule.

15 (f) NEPA REQUIREMENTS AND RELATED PROCE-  
16 DURES.—

17 (1) PROCESS.—The Forest Service shall con-  
18 duct any applicable procedures under the National  
19 Environmental Policy Act of 1969 (42 U.S.C. 4321  
20 et seq.) for the approval, at the site-specific, project  
21 level, of the activities in each five-year schedule,  
22 tiered to the extent appropriate to the environmental  
23 impact statement for the applicable forest land and  
24 resource management plan. The procedures under  
25 such Act, and any review, consultation, or coordina-

1       tion under other laws, including the Forest and  
2       Rangeland Renewable Resources Planning Act of  
3       1974 (16 U.S.C. 1600 et seq.), Endangered Species  
4       Act of 1973 (16 U.S.C. 1531 et seq.), and National  
5       Historic Preservation Act (16 U.S.C. 470), shall be  
6       completed within one year after the Forest Service,  
7       in consultation with the CAP, issues the public  
8       scoping notice regarding the proposed schedule.

9               (2) RESOURCES.—The Forest Service, and any  
10       other Federal agencies involved in the process de-  
11       scribed in paragraph (1), shall provide sufficient per-  
12       sonnel and other resources, directly or through con-  
13       tracting, to complete the review, consultation, or co-  
14       ordination within the required one-year period, and  
15       without substantially delaying implementation of  
16       other forest management activities in Region 1 of  
17       the Forest Service. The Forest Service and other in-  
18       volved agencies may rely upon or use any analysis,  
19       documents, or procedures previously performed  
20       under the National Environmental Policy Act of  
21       1969 or other law for any activity in the schedule.

22               (3) EFFECT OF FAILURE TO COMPLETE PROC-  
23       ESS.—If any review, consultation, or coordination re-  
24       quired under the National Environmental Policy Act  
25       of 1969 or other law has not been completed for a

1 schedule within the required one-year period, the  
2 lack of completion shall not be a basis for chal-  
3 lenging or delaying submittal, approval, or imple-  
4 mentation of an activity in the schedule, if the appli-  
5 cable Forest Supervisor, in consultation with the  
6 CAP, finds that sufficient review, consultation, and  
7 coordination regarding the activity has occurred and  
8 a sufficient record exists to make a reasoned deci-  
9 sion regarding approval of the activity.

10 (g) REVIEW BY FOREST SUPERVISOR.—

11 (1) SUBMISSION.—The CAP shall submit a  
12 final recommendation regarding each five-year  
13 schedule, together with the record of the review, con-  
14 sultation, and coordination performed under sub-  
15 section (f) for the schedule, to the applicable Forest  
16 Supervisor for review. The final recommendation  
17 and record shall be submitted to the Forest Super-  
18 visor at least 30 days in advance of the date for  
19 commencing implementation of activities under the  
20 schedule.

21 (2) REVIEW.—Within 30 days after receiving  
22 the CAP-recommended schedule and record, the  
23 Forest Supervisor shall issue a project or activity de-  
24 cision document regarding review of the rec-  
25 ommended schedule in accordance with the National

1 Environmental Policy Act of 1969 and any other ap-  
2 plicable procedures. In the decision document, the  
3 Forest Supervisor may approve the schedule, place  
4 conditions on implementing the schedule, or dis-  
5 approve the schedule and return it to the CAP for  
6 further consideration with instructions. If the Forest  
7 Supervisor has not issued a decision document upon  
8 expiration of the 30-day period, the schedule shall be  
9 deemed approved by the Forest Supervisor and sub-  
10 ject to administrative appeal under Department of  
11 Agriculture procedures applicable to Forest Service  
12 project or activity record of decision or decision no-  
13 tice documents issued pursuant to the National En-  
14 vironmental Policy Act of 1969.

15 (h) IMPLEMENTATION.—Upon approval of the sched-  
16 ule, but subject to any stay that may be in effect pursuant  
17 to Forest Service project or activity administrative appeal  
18 procedures, the Forest Service may issue permits, con-  
19 tracts, and other authorizations for activities in the sched-  
20 ule.

21 (i) ACTIVITIES NOT INCLUDED IN A 5-YEAR SCHED-  
22 ULE; AMENDMENT OF SCHEDULE.—An activity that the  
23 CAP determines should proceed in advance of approval of  
24 the first five-year schedule, or an activity in the pilot  
25 project area that is not included in a five-year schedule,

1 may be approved and implemented on an individual or  
2 grouped basis, upon completing the process and require-  
3 ments for review and approval of a five-year schedule. A  
4 five-year schedule may be amended upon completing the  
5 process and requirements for review and approval of the  
6 schedule.

7 (j) RELATION TO OTHER SCHEDULES, PLANS AND  
8 ACTIVITIES.—The five-year schedules and activities au-  
9 thorized under the pilot project shall supplement other  
10 schedules, plans, and projects or other activities author-  
11 ized and implemented under other law. Upon CAP rec-  
12 ommendation and applicable Forest Supervisor approval,  
13 an activity that is included in another schedule or plan  
14 or proposed, authorized, or funded under other law may  
15 be authorized and implemented as an activity under the  
16 pilot project, if the activity meets the requirements of this  
17 section for implementation as a high priority activity.

18 **SEC. 5. MONITORING AND REPORTING REQUIREMENTS.**

19 (a) REPORT ON APPLICABLE RULES AND REGULA-  
20 TIONS.—The CAP may submit to the Secretary, the Com-  
21 mittee on Energy and Natural Resources of the Senate  
22 and the Committee on Resources of the House of Rep-  
23 resentatives a compilation of regulations applicable to the  
24 pilot project that the CAP determines are inappropriate



1 for the pilot project, incompatible with the pilot project,  
2 or unduly burdensome in conducting the pilot project.

3 (b) MONITORING, ANNUAL REPORT ON THE  
4 PROJECT.—The Secretary shall monitor the activities and  
5 achievements in the pilot project area under the pilot  
6 project. Not later than two years after the date of the en-  
7 actment of this Act, and each year thereafter during the  
8 pilot project, the Secretary shall submit a report to the  
9 Committee on Energy and Natural Resources of the Sen-  
10 ate and the Committee on Resources of the House of Rep-  
11 resentatives on the results of such monitoring, including  
12 detailed information on the sources and uses of funds and  
13 the status, outputs, and other results accomplished for  
14 each activity recommended for priority implementation by  
15 the CAP under the pilot project.

16 (c) STATE OF IDAHO REPORT.—The Secretary shall  
17 request the State of Idaho to prepare a report, through  
18 the University of Idaho College of Natural Resources or  
19 other source, reviewing the activities and achievements of  
20 the pilot project in the pilot project area. The Secretary  
21 shall request the State to prepare and submit the report  
22 at five-year intervals to the Secretary, the Committee on  
23 Energy and Natural Resources of the Senate, and the  
24 Committee on Resources of the House of Representatives.  
25 The requested report should include an assessment of

1 whether, and to what extent, the activities conducted  
2 under the pilot project are meeting or enhancing the ac-  
3 complishment of stewardship objectives.

4 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

5 (a) AUTHORIZATION OF APPROPRIATIONS.—There is  
6 authorized to be appropriated to the Secretary such sums  
7 as may be necessary for the following purposes:

8 (1) Developing, submitting, reviewing, and im-  
9 plementing five-year schedules and priority activities  
10 under the pilot project, including the stewardship  
11 contracts authorized by this Act.

12 (2) Other CAP activities and technical assist-  
13 ance to the CAP for purposes of the pilot project.

14 (3) Monitoring and reporting requirements  
15 under section 5.

16 (4) Such other actions as are necessary to im-  
17 plement this Act.

18 (b) DURATION OF AUTHORIZATION.—The authoriza-  
19 tion of appropriations in subsection (a) shall apply  
20 through fiscal year 2012.

21 (c) AVAILABILITY.—Amounts appropriated for the  
22 purposes specified in subsection (a) shall remain available  
23 until expended.

24 (d) TREATMENT OF RECEIPTS.—Notwithstanding  
25 the Secure Rural Schools and Community Self-Determina-

1 tion Act of 2000 (Public Law 106–393; 16 U.S.C. 500  
2 note), any moneys received by the Forest Service from ac-  
3 tivities approved and implemented under the pilot project  
4 shall be distributed in accordance with the sixth paragraph  
5 under the heading “Forest Service” in the Act of May 23,  
6 1908 (16 U.S.C. 500).

7 **SEC. 7. SEVERABILITY.**

8       If any provision of this Act or the application of this  
9 Act to any person or circumstances is held to be invalid,  
10 the validity of the remainder of this Act and of the appli-  
11 cation of such provision to other persons and cir-  
12 cumstances shall not be affected.

○