

108TH CONGRESS
2D SESSION

S. 2134

To authorize the Secretary of Agriculture and the Secretary of the Interior to enter into an agreement or contract with Indian tribes meeting certain criteria to carry out projects to protect Indian forest land.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 26, 2004

Mrs. FEINSTEIN (for herself, Mr. CAMPBELL, Mr. DOMENICI, and Mr. SMITH) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To authorize the Secretary of Agriculture and the Secretary of the Interior to enter into an agreement or contract with Indian tribes meeting certain criteria to carry out projects to protect Indian forest land.

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 “Tribal Forest Protec-
5 tion Act of 2004”.

6 **SEC. 2. TRIBAL FOREST ASSETS PROTECTION.**

7 (a) DEFINITIONS.—In this section:

1 (1) FEDERAL LAND.—The term “Federal land”
2 means—

3 (A) land of the National Forest System (as
4 defined in section 11(a) of the Forest and
5 Rangeland Renewable Resources Planning Act
6 of 1974 (16 U.S.C. 1609(a))) administered by
7 the Secretary of Agriculture, acting through the
8 Chief of the Forest Service; and

9 (B) public lands (as defined in section 103
10 of the Federal Land Policy and Management
11 Act of 1976 (43 U.S.C. 1702)), the surface of
12 which is administered by the Secretary of the
13 Interior, acting through the Director of the Bu-
14 reau of Land Management.

15 (2) INDIAN FOREST LAND.—The term “Indian
16 forest land” has the meaning given the term in sec-
17 tion 304 of the National Indian Forest Resources
18 Management Act (25 U.S.C. 3103).

19 (3) INDIAN TRIBE.—The term “Indian tribe”
20 has the meaning given the term in section 4 of the
21 Indian Self-Determination and Education Assistance
22 Act (25 U.S.C. 450b).

23 (4) SECRETARY.—The term “Secretary”
24 means—

1 (A) the Secretary of Agriculture, with re-
2 spect to land under the jurisdiction of the For-
3 est Service; and

4 (B) the Secretary of the Interior, with re-
5 spect to land under the jurisdiction of the Bu-
6 reau of Land Management.

7 (b) AUTHORITY TO PROTECT TRIBAL FOREST AS-
8 SETS.—

9 (1) IN GENERAL.—Not later than 120 days
10 after the date on which an Indian tribe submits to
11 the Secretary a request to enter into an agreement
12 or contract to carry out a project to protect Indian
13 forest land that meets the criteria described in sub-
14 section (c), the Secretary may issue public notice of
15 initiation of any necessary environmental review or
16 of the potential of entering into an agreement or
17 contract with the Indian tribe pursuant to section
18 347 of the Department of the Interior and Related
19 Agencies Appropriations Act, 1999 (16 U.S.C. 2104
20 note; Public Law 105–277) (as amended by section
21 323 of the Department of the Interior and Related
22 Agencies Appropriations Act, 2003 (117 Stat. 275)),
23 or such other authority as appropriate, under which
24 the Indian tribe would carry out activities described
25 in paragraph (3).

1 (2) ENVIRONMENTAL ANALYSIS.—Following
2 completion of any necessary environmental analysis,
3 the Secretary may enter into an agreement or con-
4 tract with the Indian tribe as described in paragraph
5 (1).

6 (3) ACTIVITIES.—Under an agreement or con-
7 tract entered into under paragraph (2), the Indian
8 tribe may carry out activities to achieve land man-
9 agement goals for Federal land that is—

10 (A) under the jurisdiction of the Secretary;

11 and

12 (B) bordering or adjacent to the Indian
13 forest land under the jurisdiction of the Indian
14 tribe.

15 (c) SELECTION CRITERIA.—The criteria referred to
16 in subsection (b), with respect to an Indian tribe, are
17 whether—

18 (1) the Indian forest land under the jurisdiction
19 of the Indian tribe borders on or is adjacent to land
20 under the jurisdiction of the Forest Service or the
21 Bureau of Land Management;

22 (2) Forest Service or Bureau of Land Manage-
23 ment land bordering on or adjacent to the Indian
24 forest land under the jurisdiction of the Indian tribe
25 poses a fire, disease, or other threat to—

1 (A) the Indian forest land under the juris-
2 diction of the Indian tribe; or

3 (B) a tribal community;

4 (3) the agreement or contracting activities ap-
5 plied for by the Indian tribe are not already covered
6 by a stewardship contract or other instrument that
7 would present a conflict on the subject land; and

8 (4) the Forest Service or Bureau of Land Man-
9 agement land described in the application of the In-
10 dian tribe presents or involves a feature or cir-
11 cumstance unique to that Indian tribe (including
12 treaty rights or biological, archaeological, historical,
13 or cultural circumstances).

14 (d) NOTICE OF DENIAL.—If the Secretary denies a
15 tribal request under subsection (b)(1), the Secretary may
16 issue a notice of denial to the Indian tribe, which—

17 (1) identifies the specific factors that caused,
18 and explains the reasons that support, the denial;

19 (2) identifies potential courses of action for
20 overcoming specific issues that led to the denial; and

21 (3) proposes a schedule of consultation with the
22 Indian tribe for the purpose of developing a strategy
23 for protecting the forest land of the Indian tribe and
24 interests of the Indian tribe in Federal land.

1 (e) PROPOSAL EVALUATION AND DETERMINATION

2 FACTORS.—In entering into an agreement or contract in

3 response to a request of an Indian tribe under subsection

4 (b)(1), the Secretary may—

5 (1) use a best-value basis; and

6 (2) give specific consideration to tribally-related

7 factors in the proposal of the Indian tribe, includ-

8 ing—

9 (A) the status of the Indian tribe as an In-
10 dian tribe;

11 (B) the trust status of the forest land of
12 the Indian tribe;

13 (C) the cultural, traditional, and historical
14 affiliation of the Indian tribe with the land sub-
15 ject to the proposal;

16 (D) the treaty rights or other reserved
17 rights of the Indian tribe relating to the land
18 subject to the proposal;

19 (E) the indigenous knowledge and skills of
20 members of the Indian tribe;

21 (F) the features of the landscape of the
22 land subject to the proposal, including water-
23 sheds and vegetation types;

24 (G) the working relationships between the
25 Indian tribe and Federal agencies in coordi-

1 nating activities affecting the land subject to
2 the proposal; and

3 (H) the access by members of the Indian
4 tribe to the land subject to the proposal.

5 (f) NO EFFECT ON EXISTING AUTHORITY.—Nothing
6 in this Act—

7 (1) prohibits, restricts, or otherwise adversely
8 affects the participation of any Indian tribe in stew-
9 ardship agreements or contracting under the author-
10 ity of section 347 of the Department of the Interior
11 and Related Agencies Appropriations Act, 1999 (16
12 U.S.C. 2104 note; Public Law 105–277) (as amend-
13 ed by section 323 of the Department of the Interior
14 and Related Agencies Appropriations Act, 2003 (117
15 Stat. 275)) or other authority invoked pursuant to
16 this Act; or

17 (2) invalidates any agreement or contract under
18 that authority.

19 (g) REPORT.—Not later than 4 years after the date
20 of enactment of this Act, the Secretary shall submit to
21 Congress a report that describes the Indian tribal requests
22 received and agreements or contracts that have been en-
23 tered into under this Act.

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