

108TH CONGRESS
1ST SESSION

S. 433

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

IN THE SENATE OF THE UNITED STATES

FEBRUARY 25, 2003

Mr. CRAIG introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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. DEFINITIONS.**

7 (a) DEFINITIONS.—In this Act:

1 (1) ADVISORY PANEL.—The term “advisory
2 panel” means the Clearwater Advisory Panel, estab-
3 lished by the Secretary under section 3.

4 (2) PILOT PROJECT.—The term “pilot project”
5 means the Clearwater Basin Pilot Project authorized
6 by section 4.

7 (3) PILOT PROJECT AREA.—The term “pilot
8 project area” means the area described in section
9 4(a) in which the pilot project will be conducted.

10 (4) SECRETARY.—The term “Secretary” means
11 the Secretary of Agriculture.

12 (5) STEWARDSHIP CONTRACT.—The term
13 “stewardship contract” means a contract to achieve
14 land management goals for National Forest System
15 lands as described in section 347 of the Department
16 of Interior and Related Agencies Appropriations Act,
17 1999 (16 U.S.C. 2104 note).

18 (6) STEWARDSHIP OBJECTIVES.—The term
19 “stewardship objectives” means objectives that en-
20 hance forest ecosystems, and restore and improve
21 land health water quality 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 advisory panel 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 (2) provide early and continuous coordination
23 with appropriate Forest Service and other agency of-
24 ficials in reviewing and recommending activities for
25 high priority implementation; and

1 (3) provide frequent opportunities for citizens,
2 organizations, tribes, agencies, and other interested
3 parties to participate in all stages of the activity
4 schedule development process.

5 (c) APPOINTMENT OF MEMBERS.—

6 (1) APPOINTMENT AND TERM.—No later than
7 90 days after the date of enactment of this Act, and
8 consistent with subsection (d), the Secretary shall
9 appoint the members of the advisory panel and each
10 member shall serve without compensation for a term
11 of three years beginning on the date of appointment.
12 The Secretary may reappoint members to subse-
13 quent three-year terms.

14 (2) VACANCIES.—The Secretary shall make ap-
15 pointments to fill vacancies on the advisory panel as
16 soon as practicable after the vacancy has occurred.

17 (d) COMPOSITION OF ADVISORY PANEL.—The advi-
18 sory panel shall be comprised of 15 members who shall
19 be representative of the interests of the following cat-
20 egories:

21 (1) CATEGORY I.—

22 (A) organized labor;

23 (B) developed outdoor recreation, off high-
24 way vehicle users, or commercial recreation ac-
25 tivities;

1 (C) energy and mineral development inter-
2 ests;

3 (D) commercial timber industry; and

4 (E) Federal grazing permit holders, or
5 other land use permit holders within the pilot
6 project area.

7 (2) CATEGORY II.—

8 (A) national environmental organizations;

9 (B) regional or local environmental organi-
10 zations;

11 (C) dispersed recreational activities;

12 (D) archaeological and historical interests;

13 and

14 (E) national or regional fish and wildlife
15 interest groups.

16 (3) CATEGORY III.—

17 (A) State elected officeholders or their des-
18 ignee;

19 (B) county or local elected officeholders;

20 (C) Indian Tribes within or adjacent to the
21 pilot project area;

22 (D) school officials or teachers; and

23 (E) the affected public at large.

24 (4) BALANCED REPRESENTATION.—The Sec-
25 retary shall provide for balanced representation from

1 among the categories described in paragraphs (1),
2 (2), and (3).

3 (5) GEOGRAPHIC DISTRIBUTION.—The mem-
4 bers of the advisory panel shall reside within the
5 State of Idaho, and to the extent practicable, within
6 or adjacent to the pilot project area.

7 (e) APPROVAL PROCEDURES.—

8 (1) ESTABLISHMENT.—Subject to paragraph
9 (2) and the other requirements of this Act, the advi-
10 sory panel shall establish procedures for proposing,
11 developing, and reviewing activities and schedules
12 for recommendation to the Forest Service for ap-
13 proval and implementation under the pilot project. A
14 majority must be present to constitute an official
15 meeting of the advisory panel.

16 (2) MAJORITY VOTE.—An activity or schedule
17 may be recommended by the advisory panel to the
18 applicable Forest Supervisor for approval and imple-
19 mentation under the pilot program if it is approved
20 by a majority of the advisory panel members from
21 each of the three categories described in subsection
22 (d).

23 (f) OTHER AUTHORITIES AND REQUIREMENTS.—

24 (1) CHAIRPERSON.—A majority of the advisory
25 panel shall select a chairperson.

1 (2) STAFF ASSISTANCE.—The Secretary may
2 provide staff assistance to the advisory panel from
3 employees under the jurisdiction of the Secretary.

4 (3) MEETINGS.—All meetings of the advisory
5 panel shall be announced at least one week in ad-
6 vance in a local newspaper of record and shall be
7 open to the public. Records of the meetings shall be
8 retained and made available for public inspection.

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

10 (a) PILOT PROJECT AUTHORIZED.—The Secretary
11 may conduct a pilot project under this section, to be
12 known as the “Clearwater Basin pilot project”, on those
13 National Forest System land encompassed by the North
14 Fork, Powell, and Lochsa Ranger Districts of the Clear-
15 water National Forest in the State of Idaho, and the Red
16 River/Elk City, Moose Creek and Clearwater Ranger Dis-
17 tricts of the Nez Perce National Forest in the State of
18 Idaho.

19 (b) ROLE OF ADVISORY PANEL.—The advisory panel
20 shall review and recommend activities for high priority im-
21 plementation of stewardship objectives within the pilot
22 project area, for which funding is authorized under this
23 Act or other laws.

24 (c) STEWARDSHIP CONTRACTS.—A total of three
25 stewardship contracts are authorized for recommendation

1 by the advisory panel and for approval and implementa-
2 tion in accordance with, and to achieve the purposes of,
3 the pilot project. These contracts are in addition to any
4 stewardship contracts authorized under any other law.

5 (d) ACTIVITY SCHEDULES.—

6 (1) DEVELOPMENT.—Within two years after
7 the date of the enactment of this Act, the advisory
8 panel shall develop and submit for Forest Supervisor
9 review schedules of high priority activities to be com-
10 menced within the pilot project area for the ensuing
11 five-year period. Separate schedules shall be devel-
12 oped for the Clearwater National Forest portion of
13 the pilot project area. Thereafter, the advisory panel
14 shall develop and submit in advance schedules for
15 subsequent five-year periods.

16 (2) CONSULTATION.—The advisory panel shall
17 develop each five-year schedule in consultation with,
18 and with technical assistance from, the applicable
19 Forest Supervisor and the Nez Perce Tribe. The
20 Forest Service shall ensure that the activities in the
21 schedules are consistent with treaty and any other
22 obligations to the Tribe.

23 (3) CONTENT.—Each five-year schedule shall
24 be in sufficient detail to describe the high priority
25 activities to be conducted in the pilot project area

1 over the five-year period and the timing for their im-
2 plementation, and to allow reasonable site-specific,
3 project-level evaluation of their environmental ef-
4 fects. The scope of the activities included in each
5 schedule shall be reasonably adjusted to the extent
6 that the advisory panel and applicable Forest Super-
7 visor determine necessary to allow such evaluation to
8 be completed within the time periods provided by
9 this Act.

10 (4) CONSISTENCY WITH FOREST PLAN.—The
11 activities included within the five-year schedules
12 shall be consistent with the applicable forest land
13 and resource management plan. The schedule may
14 include any amendment of the applicable forest land
15 and resource management plan that the advisory
16 panel recommends or that the applicable Forest Su-
17 pervisor determines is necessary to allow or facilitate
18 implementation of one or more activities in the
19 schedule.

20 (f) NEPA REQUIREMENTS AND RELATED PROCE-
21 DURES.—

22 (1) PROCESS.—The Forest Service shall con-
23 duct any applicable procedures under the National
24 Environmental Policy Act of 1969 (42 U.S.C. 4321
25 et seq.) for the approval of the activities in each five-

1 year schedule, tiered to the environmental impact
2 statement for the applicable forest land and resource
3 management plan. The procedures under such Act,
4 and any review, consultation, or coordination under
5 other laws, including the Forest and Rangeland Re-
6 newable Resources Planning Act of 1974 (16 U.S.C.
7 1600 et seq.), Endangered Species Act of 1973 (16
8 U.S.C. 1531 et seq.) and National Historic Preser-
9 vation Act (16 U.S.C. 470), shall be completed with-
10 in one year after the Forest Service, in consultation
11 with the North Central Idaho resource advisory com-
12 mittee, issues the public scoping notice regarding the
13 proposed schedule.

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

1 under the National Environmental Policy Act of
2 1969 or other law for any activity in the schedule.

3 (3) EFFECT OF FAILURE TO COMPLETE PROC-
4 ESS.—If any review, consultation, or coordination re-
5 quired under the National Environmental Policy Act
6 of 1969 or other law has not been completed for a
7 schedule within the required one-year period, the
8 lack of completion shall not be a basis for chal-
9 lenging or delaying submittal, approval, or imple-
10 mentation of an activity in the schedule, if the appli-
11 cable Forest Supervisor, in consultation with the ad-
12 visory panel, finds that sufficient review, consulta-
13 tion, and coordination regarding the activity has oc-
14 curred and a sufficient record exists to make a rea-
15 soned decision regarding approval of the activity.

16 (g) REVIEW BY FOREST SUPERVISOR.—

17 (1) SUBMISSION.—The advisory panel shall
18 submit a final recommendation regarding each five-
19 year schedule, together with the record of the review,
20 consultation, and coordination performed under sub-
21 section (f) for the schedule, to the applicable Forest
22 Supervisor for review. The final recommendation
23 and record shall be submitted to the Forest Super-
24 visor at least 30 days in advance of the date for

1 commencing implementation of activities under the
2 schedule.

3 (2) REVIEW.—Within 30 days after receiving
4 the schedule and record from the advisory panel, the
5 Forest Supervisor shall issue a project or activity de-
6 cision document regarding review of the rec-
7 ommended schedule in accordance with the National
8 Environmental Policy Act of 1969 and any other ap-
9 plicable procedures. In the decision document, the
10 Forest Supervisor may approve the schedule, or dis-
11 approve the schedule and return it to the advisory
12 panel for further consideration with instructions. If
13 the Forest Supervisor has not issued a decision doc-
14 ument upon expiration of the 30-day period, the
15 schedule shall be deemed approved by the Forest Su-
16 pervisor and subject to administrative appeal under
17 Department of Agriculture procedures applicable to
18 Forest Service project or activity record of decision
19 or decision notice documents issued pursuant to the
20 National Environmental Policy Act of 1969.

21 (h) IMPLEMENTATION.—Upon approval of the sched-
22 ule, but subject to any stay that may be in effect pursuant
23 to Forest Service project or activity administrative appeal
24 procedures, the Forest Service may issue any permits, con-
25 tracts, or other authorizations for activities in the schedule

1 without further review, consultation, or coordination under
2 the National Environmental Policy Act of 1969 or other
3 laws.

4 (i) ACTIVITIES NOT INCLUDED IN A 5-YEAR SCHED-
5 ULE; AMENDMENT OF SCHEDULE.—An activity that the
6 advisory panel determines should proceed in advance of
7 approval of the first five-year schedule, or an activity in
8 the pilot project area that is not included in a five-year
9 schedule, may be approved and implemented on an indi-
10 vidual or group basis, upon completing the process and
11 requirements for review and approval of a five-year sched-
12 ule. A five-year schedule may be amended upon completed
13 the process and requirements for review and approval of
14 the schedule.

15 (j) RELATION TO OTHER SCHEDULES, PLANS, AND
16 ACTIVITIES.—The five-year schedules and activities au-
17 thorized under the pilot project shall supplement other
18 schedules plans and projects or other activities authorized
19 and implemented under other law. Upon advisory panel
20 recommendation and applicable Forest Supervisor ap-
21 proval, an activity that is included in another schedule or
22 plan or proposed, authorized, or funded under other law
23 may be authorized and implemented as an activity under
24 the pilot project, if the activity meets the requirements of
25 this section for implementation as a high priority activity.

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

2 (a) REPORT ON APPLICABLE RULES AND REGULA-
3 TIONS.—The advisory panel may submit to the Secretary,
4 the Committee on Energy and Natural Resources of the
5 Senate and the Committee on Resources of the House of
6 Representatives a compilation of regulations applicable to
7 the pilot project that the advisory panel determines are
8 inappropriate for the pilot project, incompatible with the
9 pilot project, or unduly burdensome in conducting the pilot
10 project.

11 (b) MONITORING; ANNUAL REPORT ON THE
12 PROJECT.—The Secretary shall monitor the activities and
13 achievement in the pilot project area under the pilot
14 project. Not later than two years after the date of the en-
15 actment of this Act, and each year thereafter during the
16 pilot project, the Secretary shall submit a report to the
17 Committee on Energy and Natural Resources of the Sen-
18 ate and the Committee on Resources of the House of Rep-
19 resentatives on the results of such monitoring, including
20 detailed information on the sources and uses of funds and
21 the status, outputs, and other results accomplished for
22 each activity recommended for priority implementation by
23 the advisory panel under the pilot project.

24 (c) STATE OF IDAHO REPORT.—The Secretary shall
25 request the State of Idaho, through the University of
26 Idaho College of Natural Resource or other source, to pre-

1 pare a report reviewing the activities and achievements of
2 the pilot project in the pilot project area. The Secretary
3 shall request the State to prepare and submit the report
4 at five-year intervals to the Secretary, the Committee on
5 Energy and Natural Resources of the Senate, and the
6 Committee on Resources of the House of Representatives.
7 The requested report should include an assessment of
8 whether, and to what extent, the activities conducted
9 under the pilot project are meeting or enhancing the ac-
10 complishment of stewardship objectives.

11 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

12 (a) AUTHORIZATION OF APPROPRIATIONS.—There is
13 authorized to be appropriated to the Secretary, through
14 fiscal year 2012, such sums as may be necessary for the
15 following purposes:

16 (1) Developing, submitting, reviewing, and im-
17 plementing five-year schedules and priority activities
18 under the pilot project, including the stewardship
19 contracts authorized by this Act.

20 (2) Other advisory panel activities and technical
21 assistance to the advisory panel for the purposes of
22 the pilot project.

23 (3) Monitoring and reporting requirements
24 under section 5.

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

3 (b) AVAILABILITY.—Amount appropriated for the
4 purposes specified in subsection (a) shall remain available
5 until expended.

6 (c) TREATMENT OF RECEIPTS.—Notwithstanding
7 the Secure Rural Schools and Community Self-Determina-
8 tion Act of 2000 (Public Law 106–393; 16 U.S.C. 500
9 note), any moneys received by the Forest Service from ac-
10 tivities approved and implemented under the pilot project
11 shall be distributed in accordance with the sixth paragraph
12 under the heading “Forest Service” in the Act of May 23,
13 1908 (16 U.S.C. 500).

14 **SEC. 7. SEVERABILITY.**

15 If any provisions of this Act or the application of this
16 Act to any person or circumstances is held to be invalid,
17 the validity of the remainder of this Act and of the appli-
18 cation of such provision to other persons and cir-
19 cumstances shall not be affected.

○