

103^D CONGRESS
2^D SESSION

H. R. 2866

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 22 (legislative day, SEPTEMBER 12), 1994

Received

SEPTEMBER 23 (legislative day, SEPTEMBER 12), 1994

Read twice and referred to the Committee on Energy and Natural Resources

AN ACT

To provide for the sound management and protection of Redwood forest areas in Humboldt County, California, by adding certain lands and waters to the Six Rivers National Forest and by including a portion of such lands in the national wilderness preservation system.

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 “Headwaters Forest
5 Act”.

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—The Congress finds that:

3 (1) Redwoods are a significant national symbol
4 and a defining symbol of the State of California.

5 (2) Old growth redwood trees are a unique and
6 irreplaceable natural resource.

7 (3) Most of the Nation's old growth forests
8 have been cut. Less than 5 percent of the original
9 2,000,000 acre Coast redwoods remain standing.
10 The groves that are left are crucial to maintain habi-
11 tat needed for survival of old-growth dependent spe-
12 cies. The Headwaters Forest, for example, is home
13 to one of California's three largest population of
14 marbled murrelets, rare sea birds that nest only in
15 coastal old growth trees; the Northern Spotted Owl;
16 and native salmon stocks that spawn in the Forest's
17 creeks.

18 (4) The remaining unprotected stands of old
19 growth forests and old growth redwoods are under
20 immediate threat of being harvested without regard
21 to their ecological importance and without following
22 Federal timber harvest guidelines.

23 (5) Significant amounts of old growth redwoods
24 in the proposed National Forest additions are being
25 cut at a pace that is based on paying high interest

1 rates on poor quality bonds and not at a pace that
2 is based on sound forest management practices.

3 (6) The continued fragmentation and loss of ir-
4 replaceable ecosystems creates an urgent need to de-
5 velop creative solutions to achieve the long-term ben-
6 efits of permanent protection and preservation.

7 (b) PURPOSE.—The purpose of this Act is to provide
8 for the sound management and protection of old growth
9 Redwood forest areas in Humboldt County, California,
10 and to preserve and enhance habitat for the marbled
11 murrelet, Northern Spotted owl, native salmon stocks, and
12 other old growth forest dependent species, by adding cer-
13 tain lands and waters to the Six Rivers National Forest
14 and by including a portion of such lands in the national
15 wilderness preservation system.

16 (c) DEFINITIONS.—For purposes of this Act:

17 (1) The terms “Six Rivers National Forest Ad-
18 dition” and “Headwaters Forest” mean the area au-
19 thorized for land acquisition activities under section
20 3, as depicted on the map described in section
21 3(b)(1).

22 (2) The term “Secretary” means the Secretary
23 of Agriculture.

1 **SEC. 3. ADDITION TO SIX RIVERS NATIONAL FOREST.**

2 (a) MODIFICATION OF BOUNDARIES.—Effective upon
3 the consummation of a land acquisition conducted as pro-
4 vided in subsection (b), the Secretary of Agriculture shall
5 modify the exterior boundaries of the Six Rivers National
6 Forest in the State of California to include the acquired
7 lands.

8 (b) ACQUISITION OF LAND.—

9 (1) AREA FOR ACQUISITION ACTIVITIES.—The
10 Secretary may acquire lands and interests in land
11 within the boundaries of an area comprising approxi-
12 mately 44,000 acres, as generally depicted on the
13 map entitled “Six Rivers National Forest Addition
14 proposed” and dated June 1993, for inclusion in the
15 Six Rivers National Forest under subsection (a).
16 The map shall be on file and available for public in-
17 spection in the offices of the Forest Supervisor, Six
18 Rivers National Forest, and in the offices of the
19 Chief of the Forest Service, Department of Agri-
20 culture.

21 (2) MANNER OF CONDUCTING ACQUISITION.—
22 Lands and interests in lands within the Six Rivers
23 National Forest Addition may be acquired by the
24 Secretary only by donation, by purchase with do-
25 nated or appropriated funds, or by exchange.

1 (3) SPECIAL RULE FOR FEDERAL TRANS-
2 FERS.—For purposes of making an exchange under
3 paragraph (2), excess or surplus lands under the ju-
4 risdiction of any other department, agency, or in-
5 strumentality of the United States may be trans-
6 ferred, subject to the advance approval of the trans-
7 fer by law, to the administrative jurisdiction of the
8 Secretary if the Secretary identifies the lands as
9 suitable for use in making an exchange. To facilitate
10 the approval of a transfer of lands under this para-
11 graph, the Secretary shall submit to the Committee
12 on Agriculture and the Committee on Natural Re-
13 sources of the House of Representatives and to the
14 Committee on Agriculture, Nutrition, and Forestry
15 of the Senate proposed legislation in connection with
16 the proposed transfer. The transfer of lands under
17 this paragraph shall be made without compensation
18 to the transferring department, agency, or instru-
19 mentality.

20 (4) ACQUISITION OF CERTAIN LANDS OUTSIDE
21 ADDITION.—When a tract of land proposed to be ac-
22 quired is only partly within the Six Rivers National
23 Forest Addition, the Secretary may acquire all or
24 any portion of the land outside of the Six Rivers Na-
25 tional Forest Addition to minimize the payment of

1 severance costs. Land acquired outside of the bound-
2 aries may be exchanged by the Secretary for non-
3 Federal lands within the boundaries. Land acquired
4 outside of the boundaries of the Six Rivers National
5 Forest Addition under this paragraph and not used
6 for exchange shall be reported to the Administrator
7 of the General Services Administration for disposal
8 under the Federal Property and Administrative
9 Services Act of 1949 (40 U.S.C. 471 et seq.).

10 (5) SPECIAL RULE FOR STATE OR LOCAL GOV-
11 ERNMENT LANDS.—Lands and interests in lands
12 within the boundaries of the Six Rivers National
13 Forest Addition that are owned by the State of Cali-
14 fornia or any political subdivision thereof, may be
15 acquired only by donation or exchange.

16 (6) ACCEPTANCE AND USE OF FUNDS.—The
17 Secretary may accept from the State of California
18 funds to cover the cost of acquiring lands within the
19 Six Rivers National Forest Addition. Notwithstand-
20 ing any other provision of law, the Secretary may re-
21 tain and expend such funds for purposes of such ac-
22 quisition. Such funds shall be available for such pur-
23 pose without further appropriation and without fis-
24 cal year limitation.

1 (c) LAND ACQUISITION PLAN.—The Secretary shall
2 develop and implement, within 6 months after the date
3 of the enactment of this Act, a land acquisition plan that
4 contains specific provisions addressing how and when
5 lands will be acquired under subsection (b). The plan shall
6 give priority first to the acquisition of lands within the
7 Six Rivers National Forest Addition proposed for inclusion
8 in the National Wilderness Preservation System. The plan
9 shall include an analysis of the possibilities for acquisition
10 through means other than the expenditure of funds, in-
11 cluding the use of excess and surplus Federal properties.
12 The Secretary shall identify and list these properties. The
13 Secretary shall submit copies of the plan to the Committee
14 on Natural Resources, the Committee on Agriculture, and
15 the Committee on Appropriations of the House of Rep-
16 resentatives and to the Committee on Energy and Natural
17 Resources, the Committee on Agriculture, Nutrition, and
18 Forestry, and the Committee on Appropriations of the
19 Senate.

20 (d) AUTHORIZATION OF APPROPRIATIONS; LIMITA-
21 TION.—There are authorized to be appropriated such
22 sums as may be necessary to carry out this Act; except
23 that the total amount obligated or expended to acquire
24 lands or interests in lands in the Six Rivers Forest Addi-
25 tion shall not exceed \$200,000,000.

1 (e) TERMINATION OF ACQUISITION AUTHORITY.—

2 Notwithstanding any other provision of this section, the
3 Secretary may not acquire lands under the authority of
4 this section after the end of the 10-year period beginning
5 on the date of the enactment of this Act.

6 (f) CONSENT OF OWNER REQUIRED FOR ACQUISITION.—

7 Lands and interests in lands within the Six Rivers
8 National Forest Addition may not be acquired by the Sec-
9 retary for purposes of this Act without the consent of the
10 owner of the lands. The Secretary may not acquire lands
11 or interests in lands within the Six Rivers National Forest
12 Addition by condemnation.

13 **SEC. 4. WILDERNESS AREAS.**

14 (a) DESIGNATION.—In furtherance of the purposes of
15 the Wilderness Act (16 U.S.C. 1131–1136), lands in the
16 State of California acquired under section 3 of this Act
17 which are within the areas generally depicted on the map
18 referred to in section 3 as the “Headwaters Forest Wilder-
19 ness (Proposed)” shall be designated as wilderness and
20 therefore as a component of the National Wilderness Pres-
21 ervation System, effective upon acquisition under section
22 3. Such lands shall be known as the Headwaters Forest
23 Wilderness.

24 (b) MAP AND DESCRIPTION.—As soon as practicable
25 after the inclusion of any lands in the Headwaters Forest

1 Wilderness, the Secretary shall file a map and a legal de-
2 scription of the area so included with the Committee on
3 Natural Resources of the House of Representatives and
4 with the Committee on Energy and Natural Resources of
5 the Senate. The Secretary may correct clerical and typo-
6 graphical errors in such legal description and such map.
7 Each such map and legal description shall be on file and
8 available for public inspection in the offices of the Forest
9 Supervisor, Six Rivers National Forest, and in the offices
10 of the Chief of the Forest Service, Department of Agri-
11 culture.

12 (c) BUFFER ZONES NOT INTENDED.—The Congress
13 does not intend that designation of any area as wilderness
14 under this section lead to the creation of protective perim-
15 eters or buffer zones around the wilderness area. The fact
16 that nonwilderness activities or uses can be seen or heard
17 from areas within a wilderness shall not, of itself, preclude
18 such activities or uses up to the boundary of the wilder-
19 ness area.

20 (d) STATE AUTHORITY OVER FISH AND WILD-
21 LIFE.—As provided in section 4(d)(8) of the Wilderness
22 Act, nothing in this Act shall be construed as affecting
23 the jurisdiction or responsibilities of the State of Califor-
24 nia with respect to wildlife and fish in any areas des-
25 ignated by this Act as wilderness.

1 **SEC. 5. ADMINISTRATION.**

2 (a) **MANAGEMENT PLAN.**—Within 1 year after ac-
3 quiring all or part of the lands identified to be acquired
4 in section 3, the Secretary shall develop a comprehensive
5 management plan for the acquired lands detailing meas-
6 ures for the preservation of the existing old growth red-
7 wood ecosystems. The management plan shall include each
8 of the following with respect to the lands so acquired:

9 (1) Prohibition of the sale of timber from lands
10 within the old growth redwood groves as depicted
11 generally on the map referred to in section 3(b)(1).
12 Timber sales in other areas within the Six Rivers
13 National Forest Addition shall be allowed consistent
14 with the purposes of this Act and other applicable
15 Federal laws and regulations.

16 (2) Measures to restore lands affected by pre-
17 vious timber harvests to mitigate watershed degrada-
18 tion and impairment of habitat for the marbled
19 murrelet, northern spotted owl, native salmon
20 stocks, and other old-growth forest dependent spe-
21 cies.

22 The management plan shall be reviewed and revised each
23 time the land and resource management plan for the Six
24 Rivers National Forest is revised or more frequently as
25 necessary to meet the purposes of this Act.

1 (b) APPLICABLE LAWS AND POLICIES.—(1) The Sec-
2 retary, acting through the Chief of the Forest Service,
3 shall administer the lands acquired under section 3(b) in
4 accordance with the Management Plan, this Act, and with
5 the other laws, rules, and regulations applicable to such
6 national forest. In addition, subject to valid existing
7 rights, any lands acquired and designated as wilderness
8 under section 4(a) shall also be administered in accord-
9 ance with the provisions of the Wilderness Act governing
10 areas designated by that Act as wilderness, except that
11 any reference in such provisions to the effective date of
12 the Wilderness Act (or any similar reference) shall be
13 deemed to be a reference to the date of acquisition of such
14 lands under section 3 of this Act.

15 (2) To the maximum extent practicable, all work to
16 implement the management plan's Restoration Measures
17 shall be performed by unemployed forest and timber work-
18 ers, unemployed commercial fishermen, or other unem-
19 ployed persons whose livelihood depends on fishery and
20 timber resources.

21 (3) In order to facilitate management, the Secretary,
22 acting through the Chief of the Forest Service may enter
23 into agreements with the State of California for the man-
24 agement of lands owned by the State or purchased with
25 State assistance.

1 **SEC. 6. PAYMENTS TO LOCAL GOVERNMENT.**

2 (a) PILT.—Solely for purposes of payments made
3 pursuant to chapter 69 of title 31 of the United States
4 Code, all lands added to the Six Rivers National Forest
5 by this Act shall be deemed to have been acquired for the
6 purposes specified in section 6904(a) of such title 31.

7 (b) 10-YEAR PAYMENT.—(1) Subject to annual ap-
8 propriations and the provisions of subsection (c), for a pe-
9 riod of 10 years after acquisition by the United States of
10 lands added to the Six Rivers National Forest by this Act,
11 the Secretary, with respect to such acquired lands, shall
12 make annual payments to Humboldt County in the State
13 of California in an amount equal to the State of California
14 Timber Yield Tax revenues payable under the California
15 Revenue and Taxation Code (sec. 38101 et seq.) in effect
16 as of the date of enactment of this Act that would have
17 been paid with respect to such lands if the lands had not
18 been acquired by the United States, as determined by the
19 Secretary pursuant to this subsection.

20 (2) The Secretary shall determine the amounts to be
21 paid pursuant to paragraph (1) of this subsection based
22 on an assessment of a variety of factors including, but not
23 limited to—

24 (A) timber actually sold in the subject year
25 from comparable commercial forest lands of similar

1 soil type, slope and such determination of appro-
2 priate timber harvest levels,

3 (B) comparable timber size class, age, and qual-
4 ity,

5 (C) market conditions,

6 (D) all applicable Federal, State, and local laws
7 and regulations, and

8 (E) the goal of sustainable, even-flow harvest or
9 renewable timber resources.

10 (c) CALIFORNIA TIMBER YIELD TAX.—The amount
11 of State of California Timber Yield Tax payments paid
12 to Humboldt County in any year pursuant to the laws of
13 California for timber sold from lands acquired under this
14 Act shall be deducted from the sums to be paid to Hum-
15 boldt County in that year under subsection (b).

16 (d) 25-PERCENT FUND.—Amounts paid under sub-
17 section (b) with respect to any land in any year shall be
18 reduced by any amounts paid under the Act of May 23,
19 1908 (16 U.S.C. 500) which are attributable to sales from
20 the same lands in that year.

21 **SEC. 7. FOREST STUDY.**

22 The Secretary shall study the lands within the area
23 comprising approximately 13,620 acres and generally de-
24 picted as “Study Area” on the map referred to in section
25 3(a). The study shall analyze the area’s potential to be

1 added to the Headwaters Forest and shall identify the nat-
2 ural resources of the area including the location of old
3 growth forests, old growth redwood stands, threatened and
4 endangered species habitat and populations including the
5 northern spotted owl and marbled murrelet, commercial
6 timber volume, recreational opportunities, wildlife and
7 fish, watershed management, and the cost of acquiring the
8 land. Within one year of the date of enactment of this
9 Act, the Secretary shall submit a report with the findings
10 of the study to the Committees on Natural Resources, and
11 Agriculture of the United States House of Representatives
12 and the Committees on Energy and Natural Resources,
13 and Agriculture, Nutrition, and Forestry of the United
14 States Senate.

15 **SEC. 8. NO ADVERSE EFFECT ON LANDS UNTIL ACQUIRED.**

16 (a) IN GENERAL.—Until the lands in the Six River
17 National Forest Addition are acquired under section 3, the
18 owners of the lands and their designees shall be entitled
19 to the full and lawful use and enjoyment of the lands.
20 Nothing in this Act may be—

21 (1) construed to impose any limitations upon
22 any otherwise lawful use of the lands by the owners
23 of the lands or their designees;

24 (2) construed as authority to defer the submis-
25 sion, review, approval, or implementation of any tim-

1 ber harvest or similar plan with respect to any por-
2 tion of the lands; or

3 (3) construed to grant a cause of action against
4 the owner of the lands or their designees.

5 (b) VOLUNTARY DEFERMENT OF USE.—The owners
6 of lands described in section 3 or their designees may
7 agree of their own accord to defer some or all lawful enjoy-
8 ment and use of the land for a certain period of time.

9 **SEC. 9. SEARCH AND RESCUE OPERATIONS IN SIX RIVERS**
10 **NATIONAL FOREST.**

11 As provided in section 4(c) of the Wilderness Act (16
12 U.S.C. 1133(c)), mechanical transport (including motor
13 vehicles, motorized equipment, and the landing of fixed-
14 wing and rotary aircraft) shall be permitted anywhere
15 within the boundaries of the Six Rivers National Forest
16 with respect to any emergency involving the health or safe-
17 ty of an individual within the national forests.

18 **SEC. 10. PURCHASE OF AMERICAN-MADE EQUIPMENT AND**
19 **PRODUCTS.**

20 (a) SENSE OF CONGRESS.—It is the sense of the Con-
21 gress that, to the greatest extent practicable, all equip-
22 ment and products purchased with funds made available
23 under this Act should be American-made.

24 (b) NOTICE REQUIREMENT.—In providing payments
25 under section 6 or other financial assistance to, or enter-

1 ing into any contract with, any entity using funds made
2 available under this Act, the Secretary, to the greatest ex-
3 tent practicable, shall provide to such entity a notice de-
4 scribing the statement made in subsection (a) by the Con-
5 gress.

Passed the House of Representatives September 21,
1994.

Attest: DONNALD K. ANDERSON,
Clerk.

HR. 2866 RFS—2