

106TH CONGRESS
2^D SESSION

H. R. 3388

IN THE SENATE OF THE UNITED STATES

OCTOBER 24 (legislative day, SEPTEMBER 22), 2000

Received

AN ACT

To promote environmental restoration around the Lake
Tahoe basin.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Lake Tahoe Restora-
3 tion Act”.

4 **SEC. 2. FINDINGS AND PURPOSES.**

5 (a) FINDINGS.—Congress finds that—

6 (1) Lake Tahoe, one of the largest, deepest,
7 and clearest lakes in the world, has a cobalt blue
8 color, a unique alpine setting, and remarkable water
9 clarity, and is recognized nationally and worldwide
10 as a natural resource of special significance;

11 (2) in addition to being a scenic and ecological
12 treasure, Lake Tahoe is one of the outstanding rec-
13 reational resources of the United States, offering
14 skiing, water sports, biking, camping, and hiking to
15 millions of visitors each year, and contributing sig-
16 nificantly to the economies of California, Nevada,
17 and the United States;

18 (3) the economy in the Lake Tahoe basin is de-
19 pendent on the protection and restoration of the nat-
20 ural beauty and recreation opportunities in the area;

21 (4) Lake Tahoe is in the midst of an environ-
22 mental crisis; the Lake’s water clarity has declined
23 from a visibility level of 105 feet in 1967 to only 70
24 feet in 1999, and scientific estimates indicate that if
25 the water quality at the Lake continues to degrade,

1 Lake Tahoe will lose its famous clarity in only 30
2 years;

3 (5) sediment and algae-nourishing phosphorous
4 and nitrogen continue to flow into the Lake from a
5 variety of sources, including land erosion, fertilizers,
6 air pollution, urban runoff, highway drainage,
7 streamside erosion, land disturbance, and ground
8 water flow;

9 (6) methyl tertiary butyl ether—

10 (A) has contaminated and closed more
11 than $\frac{1}{3}$ of the wells in South Tahoe; and

12 (B) is advancing on the Lake at a rate of
13 approximately 9 feet per day;

14 (7) destruction of wetlands, wet meadows, and
15 stream zone habitat has compromised the Lake's
16 ability to cleanse itself of pollutants;

17 (8) approximately 40 percent of the trees in the
18 Lake Tahoe basin are either dead or dying, and the
19 increased quantity of combustible forest fuels has
20 significantly increased the risk of catastrophic forest
21 fire in the Lake Tahoe basin;

22 (9) as the largest land manager in the Lake
23 Tahoe basin, with 77 percent of the land, the Fed-
24 eral Government has a unique responsibility for re-
25 storing environmental health to Lake Tahoe;

1 (10) the Federal Government has a long history
2 of environmental preservation at Lake Tahoe,
3 including—

4 (A) congressional consent to the establish-
5 ment of the Tahoe Regional Planning Agency in
6 1969 (Public Law 91–148; 83 Stat. 360) and
7 in 1980 (Public Law 96–551; 94 Stat. 3233);

8 (B) the establishment of the Lake Tahoe
9 Basin Management Unit in 1973; and

10 (C) the enactment of Public Law 96–586
11 (94 Stat. 3381) in 1980 to provide for the ac-
12 quisition of environmentally sensitive land and
13 erosion control grants;

14 (11) the President renewed the Federal Govern-
15 ment’s commitment to Lake Tahoe in 1997 at the
16 Lake Tahoe Presidential Forum, when he committed
17 to increased Federal resources for environmental
18 restoration at Lake Tahoe and established the Fed-
19 eral Interagency Partnership and Federal Advisory
20 Committee to consult on natural resources issues
21 concerning the Lake Tahoe basin;

22 (12) the States of California and Nevada have
23 contributed proportionally to the effort to protect
24 and restore Lake Tahoe, including—

25 (A) expenditures—

1 (i) exceeding \$200,000,000 by the
2 State of California since 1980 for land ac-
3 quisition, erosion control, and other envi-
4 ronmental projects in the Lake Tahoe
5 basin; and

6 (ii) exceeding \$30,000,000 by the
7 State of Nevada since 1980 for the pur-
8 poses described in clause (i); and

9 (B) the approval of a bond issue by voters
10 in the State of Nevada authorizing the expendi-
11 ture by the State of an additional \$20,000,000;
12 and

13 (13) significant additional investment from
14 Federal, State, local, and private sources is needed
15 to stop the damage to Lake Tahoe and its forests,
16 and restore the Lake Tahoe basin to ecological
17 health.

18 (b) PURPOSES.—The purposes of this Act are—

19 (1) to enable the Forest Service to plan and im-
20 plement significant new environmental restoration
21 activities and forest management activities to ad-
22 dress the phenomena described in paragraphs (4)
23 through (8) of subsection (a) in the Lake Tahoe
24 basin;

1 (2) to ensure that Federal, State, local, re-
2 gional, tribal, and private entities continue to work
3 together to improve water quality and manage Fed-
4 eral land in the Lake Tahoe Basin Management
5 Unit; and

6 (3) to provide funding to local governments for
7 erosion and sediment control projects on non-Fed-
8 eral land if the projects benefit the Federal land.

9 **SEC. 3. DEFINITIONS.**

10 In this Act:

11 (1) ENVIRONMENTAL THRESHOLD CARRYING
12 CAPACITY.—The term “environmental threshold car-
13 rying capacity” has the meaning given the term in
14 article II of the Tahoe Regional Planning Compact
15 set forth in the first section of Public Law 96–551
16 (94 Stat. 3235).

17 (2) FIRE RISK REDUCTION ACTIVITY.—

18 (A) IN GENERAL.—The term “fire risk re-
19 duction activity” means an activity that is nec-
20 essary to reduce the risk of wildlife to promote
21 forest management and simultaneously achieve
22 and maintain the environmental threshold car-
23 rying capacities established by the Planning
24 Agency in a manner consistent, where applica-

1 ble, with chapter 71 of the Tahoe Regional
 2 Planning Agency Code of Ordinances.

3 (B) INCLUDED ACTIVITIES.—The term
 4 “fire risk reduction activity” includes—

5 (i) prescribed burning;

6 (ii) mechanical treatment;

7 (iii) road obliteration or reconstruc-
 8 tion; and

9 (iv) such other activities consistent
 10 with Forest Service practices as the Sec-
 11 retary determines to be appropriate.

12 (3) PLANNING AGENCY.—The term “Planning
 13 Agency” means the Tahoe Regional Planning Agen-
 14 cy established under Public Law 91–148 (83 Stat.
 15 360) and Public Law 96–551 (94 Stat. 3233).

16 (4) PRIORITY LIST.—The term “priority list”
 17 means the environmental restoration priority list de-
 18 veloped under section 6.

19 (5) SECRETARY.—The term “Secretary” means
 20 the Secretary of Agriculture, acting through the
 21 Chief of the Forest Service.

22 **SEC. 4. ADMINISTRATION OF THE LAKE TAHOE BASIN MAN-**
 23 **AGEMENT UNIT.**

24 (a) IN GENERAL.—The Lake Tahoe Basin Manage-
 25 ment Unit shall be administered by the Secretary in ac-

1 cordance with this Act and the laws applicable to the Na-
2 tional Forest System.

3 (b) RELATIONSHIP TO OTHER AUTHORITY.—

4 (1) PRIVATE OR NON-FEDERAL LAND.—Noth-
5 ing in this Act grants regulatory authority to the
6 Secretary over private or other non-Federal land.

7 (2) PLANNING AGENCY.—Nothing in this Act
8 affects or increases the authority of the Planning
9 Agency.

10 (3) ACQUISITION UNDER OTHER LAW.—Noth-
11 ing in this Act affects the authority of the Secretary
12 to acquire land from willing sellers in the Lake
13 Tahoe basin under any other law.

14 **SEC. 5. CONSULTATION WITH PLANNING AGENCY AND**
15 **OTHER ENTITIES.**

16 (a) IN GENERAL.—With respect to the duties de-
17 scribed in subsection (b), the Secretary shall consult with
18 and seek the advice and recommendations of—

19 (1) the Planning Agency;

20 (2) the Tahoe Federal Interagency Partnership
21 established by Executive Order No. 13057 (62 Fed.
22 Reg. 41249) or a successor Executive order;

23 (3) the Lake Tahoe Basin Federal Advisory
24 Committee established by the Secretary on Decem-

1 ber 15, 1998 (64 Fed. Reg. 2876) (until the com-
2 mittee is terminated);

3 (4) Federal representatives and all political sub-
4 divisions of the Lake Tahoe Basin Management
5 Unit; and

6 (5) the Lake Tahoe Transportation and Water
7 Quality Coalition.

8 (b) DUTIES.—The Secretary shall consult with and
9 seek advice and recommendations from the entities de-
10 scribed in subsection (a) with respect to—

11 (1) the administration of the Lake Tahoe Basin
12 Management Unit;

13 (2) the development of the priority list;

14 (3) the promotion of consistent policies and
15 strategies to address the Lake Tahoe basin’s envi-
16 ronmental and recreational concerns;

17 (4) the coordination of the various programs,
18 projects, and activities relating to the environment
19 and recreation in the Lake Tahoe basin to avoid un-
20 necessary duplication and inefficiencies of Federal,
21 State, local, tribal, and private efforts; and

22 (5) the coordination of scientific resources and
23 data, for the purpose of obtaining the best available
24 science as a basis for decisionmaking on an ongoing
25 basis.

1 **SEC. 6. ENVIRONMENTAL RESTORATION PRIORITY LIST.**

2 (a) IN GENERAL.—Not later than 1 year after the
3 date of enactment of this Act, the Secretary shall develop
4 a priority list of potential or proposed environmental res-
5 toration projects for the Lake Tahoe Basin Management
6 Unit.

7 (b) DEVELOPMENT OF PRIORITY LIST.—In devel-
8 oping the priority list, the Secretary shall—

9 (1) use the best available science, including any
10 relevant findings and recommendations of the water-
11 shed assessment conducted by the Forest Service in
12 the Lake Tahoe basin; and

13 (2) include, in order of priority, potential or
14 proposed environmental restoration projects in the
15 Lake Tahoe basin that—

16 (A) are included in or are consistent with
17 the environmental improvement program adopt-
18 ed by the Planning Agency in February 1998
19 and amendments to the program;

20 (B) would help to achieve and maintain the
21 environmental threshold carrying capacities
22 for—

- 23 (i) air quality;
24 (ii) fisheries;
25 (iii) noise;
26 (iv) recreation;

- 1 (v) scenic resources;
- 2 (vi) soil conservation;
- 3 (vii) forest health;
- 4 (viii) water quality; and
- 5 (ix) wildlife.

6 (c) FOCUS IN DETERMINING ORDER OF PRIORITY.—

7 In determining the order of priority of potential and pro-
8 posed environmental restoration projects under subsection
9 (b)(2), the focus shall address projects (listed in no par-
10 ticular order) involving—

11 (1) erosion and sediment control, including the
12 activities described in section 2(g) of Public Law
13 96–586 (94 Stat. 3381) (as amended by section 7
14 of this Act);

15 (2) the acquisition of environmentally sensitive
16 land from willing sellers—

17 (A) using funds appropriated from the
18 land and water conservation fund established
19 under section 2 of the Land and Water Con-
20 servation Fund Act of 1965 (16 U.S.C. 460l–
21 5); or

22 (B) under the authority of Public Law 96–
23 586 (94 Stat. 3381);

24 (3) fire risk reduction activities in urban areas
25 and urban-wildland interface areas, including high

1 recreational use areas and urban lots acquired from
2 willing sellers under the authority of Public Law 96–
3 586 (94 Stat. 3381);

4 (4) cleaning up methyl tertiary butyl ether con-
5 tamination; and

6 (5) the management of vehicular parking and
7 traffic in the Lake Tahoe Basin Management Unit,
8 especially—

9 (A) improvement of public access to the
10 Lake Tahoe basin, including the promotion of
11 alternatives to the private automobile;

12 (B) the Highway 28 and 89 corridors and
13 parking problems in the area; and

14 (C) cooperation with local public transpor-
15 tation systems, including—

16 (i) the Coordinated Transit System;

17 and

18 (ii) public transit systems on the
19 north shore of Lake Tahoe.

20 (d) MONITORING.—The Secretary shall provide for
21 continuous scientific research on and monitoring of the
22 implementation of projects on the priority list, including
23 the status of the achievement and maintenance of environ-
24 mental threshold carrying capacities.

1 (e) CONSISTENCY WITH MEMORANDUM OF UNDER-
2 STANDING.—A project on the priority list shall be con-
3 ducted in accordance with the memorandum of under-
4 standing signed by the Forest Supervisor and the Plan-
5 ning Agency on November 10, 1989, including any amend-
6 ments to the memorandum as long as the memorandum
7 remains in effect.

8 (f) REVIEW OF PRIORITY LIST.—Periodically, but
9 not less often than every 3 years, the Secretary shall—

10 (1) review the priority list;

11 (2) consult with—

12 (A) the Tahoe Regional Planning Agency;

13 (B) interested political subdivisions; and

14 (C) the Lake Tahoe Water Quality and
15 Transportation Coalition;

16 (3) make any necessary changes with respect

17 to—

18 (A) the findings of scientific research and
19 monitoring in the Lake Tahoe basin;

20 (B) any change in an environmental
21 threshold as determined by the Planning Agen-
22 cy; and

23 (C) any change in general environmental
24 conditions in the Lake Tahoe basin; and

1 (4) submit to Congress a report on any changes
2 made.

3 (g) CLEANUP OF HYDROCARBON CONTAMINATION.—

4 (1) IN GENERAL.—The Secretary shall, subject
5 to the availability of appropriations, make a pay-
6 ment of \$1,000,000 to the Tahoe Regional Planning
7 Agency and the South Tahoe Public Utility District
8 to develop and publish a plan, not later than 1 year
9 after the date of enactment of this Act, for the pre-
10 vention and cleanup of hydrocarbon contamination
11 (including contamination with MTBE) of the surface
12 water and ground water of the Lake Tahoe basin.

13 (2) CONSULTATION.—In developing the plan,
14 the Tahoe Regional Planning Agency and the South
15 Tahoe Public Utility District shall consult with the
16 States of California and Nevada and appropriate po-
17 litical subdivisions.

18 (3) WILLING SELLERS.—The plan shall not in-
19 clude any acquisition of land or an interest in land
20 except an acquisition from a willing seller.

21 (h) AUTHORIZATION OF APPROPRIATIONS.—There is
22 authorized to be appropriated, for the implementation of
23 projects on the priority list and the payment identified in
24 subsection (g), \$20,000,000 for the first fiscal year that

1 begins after the date of enactment of this Act and for each
2 of the 9 fiscal years thereafter.

3 **SEC. 7. ENVIRONMENTAL IMPROVEMENT PAYMENTS.**

4 Section 2 of Public Law 96–586 (94 Stat. 3381) is
5 amended by striking subsection (g) and inserting the fol-
6 lowing:

7 “(g) PAYMENTS TO LOCALITIES.—

8 “(1) IN GENERAL.—The Secretary of Agri-
9 culture shall, subject to the availability of appropria-
10 tions, make annual payments to the governing bod-
11 ies of each of the political subdivisions (including
12 any public utility the service area of which includes
13 any part of the Lake Tahoe basin), any portion of
14 which is located in the area depicted on the final
15 map filed under section 3(a).

16 “(2) USE OF PAYMENTS.—Payments under this
17 subsection may be used—

18 “(A) first, for erosion control and water
19 quality projects; and

20 “(B) second, unless emergency projects
21 arise, for projects to address other threshold
22 categories after thresholds for water quality and
23 soil conservation have been achieved and main-
24 tained.

25 “(3) ELIGIBILITY FOR PAYMENTS.—

1 “(A) IN GENERAL.—To be eligible for a
2 payment under this subsection, a political sub-
3 division shall annually submit a priority list of
4 proposed projects to the Secretary of Agri-
5 culture.

6 “(B) COMPONENTS OF LIST.—A priority
7 list under subparagraph (A) shall include, for
8 each proposed project listed—

9 “(i) a description of the need for the
10 project;

11 “(ii) all projected costs and benefits;
12 and

13 “(iii) a detailed budget.

14 “(C) USE OF PAYMENTS.—A payment
15 under this subsection shall be used only to
16 carry out a project or proposed project that is
17 part of the environmental improvement pro-
18 gram adopted by the Tahoe Regional Planning
19 Agency in February 1998 and amendments to
20 the program.

21 “(D) FEDERAL OBLIGATION.—All projects
22 funded under this subsection shall be part of
23 Federal obligation under the enviromental
24 improvement program.

25 “(4) DIVISION OF FUNDS.—

1 “(A) IN GENERAL.—The total amounts ap-
2 propriated for payments under this subsection
3 shall be allocated by the Secretary of Agri-
4 culture based on the relative need for and mer-
5 its of projects proposed for payment under this
6 section.

7 “(B) MINIMUM.—To the maximum extent
8 practicable, for each fiscal year, the Secretary
9 of Agriculture shall ensure that each political
10 subdivision in the Lake Tahoe basin receives
11 amounts appropriated for payments under this
12 subsection.

13 “(5) AUTHORIZATION OF APPROPRIATIONS.—In
14 addition to the amounts authorized to be appro-
15 priated to carry out section 6 of the Lake Tahoe
16 Restoration Act, there is authorized to be appro-
17 priated for making payments under this subsection
18 \$10,000,000 for the first fiscal year that begins
19 after the date of enactment of this paragraph and
20 for each of the 9 fiscal years thereafter.”.

21 **SEC. 8. FIRE RISK REDUCTION ACTIVITIES.**

22 (a) IN GENERAL.—In conducting fire risk reduction
23 activities in the Lake Tahoe basin, the Secretary shall, as
24 appropriate, coordinate with State and local agencies and

1 organizations, including local fire departments and volun-
2 teer groups.

3 (b) GROUND DISTURBANCE.—The Secretary shall, to
4 the maximum extent practicable, minimize any ground dis-
5 turbances caused by fire risk reduction activities.

6 **SEC. 9. AVAILABILITY AND SOURCE OF FUNDS.**

7 (a) IN GENERAL.—Funds authorized under this Act
8 and the amendment made by this Act—

9 (1) shall be in addition to any other amounts
10 available to the Secretary for expenditure in the
11 Lake Tahoe basin; and

12 (2) shall not reduce allocations for other Re-
13 gions of the Forest Service.

14 (b) MATCHING REQUIREMENT.—Except as provided
15 in subsection (c), funds for activities under section 6 and
16 section 7 of this Act shall be available for obligation on
17 a 1-to-1 basis with funding of restoration activities in the
18 Lake Tahoe basin by the States of California and Nevada.

19 (c) RELOCATION COSTS.—The Secretary shall pro-
20 vide $\frac{2}{3}$ of necessary funding to local utility districts for
21 the costs of relocating facilities in connection with environ-
22 mental restoration projects under section 6 and erosion
23 control projects under section 2 of Public Law 96–586.

1 **SEC. 10. AMENDMENT OF PUBLIC LAW 96-586.**

2 Section 3(a) of Public Law 96-586 (94 Stat. 3383)
3 is amended by adding at the end the following:

4 “(5) WILLING SELLERS.—Land within the
5 Lake Tahoe Basin Management Unit subject to ac-
6 quisition under this section that is owned by a pri-
7 vate person shall be acquired only from a willing
8 seller.”.

9 **SEC. 11. RELATIONSHIP TO OTHER LAWS.**

10 Nothing in this Act exempts the Secretary from the
11 duty to comply with any applicable Federal law.

12 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

13 There are authorized to be appropriated such sums
14 as are necessary to carry out this Act.

Passed the House of Representatives October 23,
2000.

Attest:

JEFF TRANDAHL,
Clerk.

By MARTHA C. MORRISON,
Deputy Clerk.