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To promote environmental restoration around the Lake Tahoe basin.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 16, 1999

Mrs. FEINSTEIN (for herself, Mr. REID, Mrs. BOXER, and Mr. BRYAN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Lake Tahoe Restora-
5 tion Act”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

8 (1) Lake Tahoe, one of the largest, deepest,
9 and clearest lakes in the world, has a cobalt blue
10 color, a unique alpine setting, and remarkable water

1 clarity, and is recognized nationally and worldwide
2 as a natural resource of special significance;

3 (2) in addition to being a scenic and ecological
4 treasure, Lake Tahoe is one of the outstanding rec-
5 reational resources of the United States, offering
6 skiing, water sports, biking, camping, and hiking to
7 millions of visitors each year, and contributing sig-
8 nificantly to the economies of California, Nevada,
9 and the United States;

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

13 (4) Lake Tahoe is in the midst of an environ-
14 mental crisis; the Lake's water clarity has declined
15 from a visibility level of 105 feet in 1967 to only 70
16 feet in 1999, and scientific estimates indicate that if
17 the water quality at the Lake continues to degrade,
18 Lake Tahoe will lose its famous clarity in only 30
19 years;

20 (5) sediment and algae-nourishing phosphorous
21 and nitrogen continue to flow into the Lake from a
22 variety of sources, including land erosion, fertilizers,
23 air pollution, urban runoff, highway drainage,
24 streamside erosion, land disturbance, and ground
25 water flow;

1 (6) methyl tertiary butyl ether—

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

4 (B) is advancing on the lake at a rate of
5 approximately 9 feet per day;

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

9 (8) approximately 40 percent of the trees in the
10 Lake Tahoe basin are either dead or dying, and the
11 increased quantity of combustible forest fuels has
12 significantly increased the risk of catastrophic forest
13 fire in the Lake Tahoe basin;

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

18 (10) the Federal Government has a long history
19 of environmental preservation at Lake Tahoe,
20 including—

21 (A) congressional consent to the establish-
22 ment of the Tahoe Regional Planning Agency in
23 1969 (Public Law 91-148; 83 Stat. 360) and
24 in 1980 (Public Law 96-551; 94 Stat. 3233);

1 (B) the establishment of the Lake Tahoe
2 Basin Management Unit in 1973; and

3 (C) the enactment of Public Law 96–586
4 (94 Stat. 3381) in 1980 to provide for the ac-
5 quisition of environmentally sensitive land and
6 erosion control grants;

7 (11) President Clinton renewed the Federal
8 Government’s commitment to Lake Tahoe in 1997
9 at the Lake Tahoe Presidential Forum, when he
10 committed to increased Federal resources for envi-
11 ronmental restoration at Lake Tahoe and estab-
12 lished the Federal Interagency Partnership and Fed-
13 eral Advisory Committee to consult on natural re-
14 sources issues concerning the Lake Tahoe basin;

15 (12) the States of California and Nevada have
16 contributed proportionally to the effort to protect
17 and restore Lake Tahoe, including—

18 (A) expenditures—

19 (i) exceeding \$200,000,000 by the
20 State of California since 1980 for land ac-
21 quisition, erosion control, and other envi-
22 ronmental projects in the Lake Tahoe
23 basin; and

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

4 (B) the approval of a bond issue by voters
5 in the State of Nevada authorizing the expendi-
6 ture by that State of an additional
7 \$20,000,000; and

8 (13) significant additional investment from
9 Federal, State, local, and private sources is needed
10 to stop the damage to Lake Tahoe and its forests,
11 and restore the Lake Tahoe basin to ecological
12 health.

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

14 (1) to enable the Forest Service to plan and im-
15 plement significant new environmental restoration
16 activities and forest management activities to ad-
17 dress the phenomena described in paragraphs (4)
18 through (8) of subsection (a) in the Lake Tahoe
19 basin;

20 (2) to ensure that Federal, State, local, re-
21 gional, tribal, and private agencies continue to work
22 together to improve water quality and manage Fed-
23 eral land in the Lake Tahoe Basin Management
24 Unit; and

1 (3) to provide funding to local governments for
2 erosion and sediment control projects on non-Fed-
3 eral land.

4 **SEC. 3. DEFINITIONS.**

5 In this Act:

6 (1) ENVIRONMENTAL THRESHOLD CARRYING
7 CAPACITY.—The term “environmental threshold car-
8 rying capacity” has the meaning given the term in
9 Article II of the Tahoe Regional Planning Compact
10 set forth in the first section of Public Law 96–551
11 (94 Stat. 3235).

12 (2) FIRE RISK REDUCTION ACTIVITY.—

13 (A) IN GENERAL.—The term “fire risk re-
14 duction activity” means an activity that is nec-
15 essary to reduce the risk of wildfire to promote
16 forest management and simultaneously achieve
17 and maintain the environmental threshold car-
18 rying capacities established by the Planning
19 Agency in a manner consistent, where applica-
20 ble, with chapter 71 of the Tahoe Regional
21 Planning Agency Code of Ordinances.

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

24 (i) prescribed burning;

25 (ii) mechanical treatment;

1 (iii) road obliteration or reconstruc-
2 tion; and

3 (iv) such other activities consistent
4 with Forest Service practices as the Sec-
5 retary determines to be appropriate.

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

10 (4) PRIORITY LIST.—The term “priority list”
11 means the environmental restoration priority list de-
12 veloped under section 6.

13 (5) SECRETARY.—The term “Secretary” means
14 the Secretary of Agriculture, acting through the
15 Chief of the Forest Service.

16 **SEC. 4. ADMINISTRATION OF THE LAKE TAHOE BASIN MAN-**
17 **AGEMENT UNIT.**

18 (a) IN GENERAL.—The Lake Tahoe Basin Manage-
19 ment Unit shall be administered by the Secretary in ac-
20 cordance with this Act and the laws applicable to the Na-
21 tional Forest System.

22 (b) RELATIONSHIP TO OTHER AUTHORITY.—

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

1 (2) **PLANNING AGENCY.**—Nothing in this Act
2 affects or increases the authority of the Planning
3 Agency.

4 (3) **ACQUISITION UNDER OTHER LAW.**—Noth-
5 ing in this Act affects the authority of the Secretary
6 to acquire land from willing sellers in the Lake
7 Tahoe basin under any other law.

8 **SEC. 5. CONSULTATION WITH PLANNING AGENCY AND**
9 **OTHER ENTITIES.**

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

13 (1) the Planning Agency;

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

17 (3) the Lake Tahoe Basin Federal Advisory
18 Committee established by the Secretary on Decem-
19 ber 15, 1998 (64 Fed. Reg. 2876) (until the com-
20 mittee is terminated);

21 (4) Federal representatives and all political sub-
22 divisions of the Lake Tahoe Basin Management
23 Unit; and

24 (5) the Lake Tahoe Transportation and Water
25 Quality Coalition.

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

4 (1) the administration of the Lake Tahoe Basin
5 Management Unit;

6 (2) the development of the priority list;

7 (3) the promotion of consistent policies and
8 strategies to address the Lake Tahoe basin’s envi-
9 ronmental and recreational concerns;

10 (4) the coordination of the various programs,
11 projects, and activities relating to the environment
12 and recreation in the Lake Tahoe basin to avoid un-
13 necessary duplication and inefficiencies of Federal,
14 State, local, tribal, and private efforts; and

15 (5) the coordination of scientific resources and
16 data, for the purpose of obtaining the best available
17 science as a basis for decisionmaking on an ongoing
18 basis.

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

20 (a) IN GENERAL.—Not later than 1 year after the
21 date of enactment of this Act, the Secretary shall develop
22 a priority list of potential or proposed environmental res-
23 toration projects for the Lake Tahoe basin.

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

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

5 (2) include, in order of priority, potential or
6 proposed environmental restoration projects in the
7 Lake Tahoe basin that—

8 (A) are included in or are consistent with
9 the environmental improvement program adopt-
10 ed by the Planning Agency in February 1998
11 and amendments to the program;

12 (B) would help to achieve and maintain the
13 environmental threshold carrying capacities
14 for—

15 (i) air quality;

16 (ii) fisheries;

17 (iii) noise;

18 (iv) recreation;

19 (v) scenic resources;

20 (vi) soil conservation;

21 (vii) forest health;

22 (viii) water quality; and

23 (ix) wildlife;

24 (3) in determining the order of priority of po-
25 tential and proposed environmental restoration

1 projects under paragraph (2), the focus shall ad-
2 dress projects (listed in no particular order)
3 involving—

4 (A) erosion and sediment control, including
5 the activities described in section 2(g) of Public
6 Law 96–586 (94 Stat. 3381) (as amended by
7 section 7);

8 (B) the acquisition of environmentally sen-
9 sitive land from willing sellers under Public
10 Law 96–586 (94 Stat. 3381) or land acqui-
11 sition under any other Federal law;

12 (C) fire risk reduction activities in urban
13 areas and urban-wildland interface areas, in-
14 cluding high recreational use areas and urban
15 lots acquired from willing sellers under Public
16 Law 96–586 (94 Stat. 3381);

17 (D) cleaning up methyl tertiary butyl ether
18 contamination; and

19 (E) the management of vehicular parking
20 and traffic in the Lake Tahoe Basin Manage-
21 ment Unit, especially—

22 (i) improvement of public access to
23 the Lake Tahoe basin, including the pro-
24 motion of alternatives to the private auto-
25 mobile;

1 (ii) the Highway 28 and 89 corridors
2 and parking problems in the area; and

3 (iii) cooperation with local public
4 transportation systems, including—

5 (I) the Coordinated Transit Sys-
6 tem; and

7 (II) public transit systems on the
8 north shore of Lake Tahoe.

9 (c) MONITORING.—The Secretary shall provide for
10 continuous scientific research on and monitoring of the
11 implementation of projects on the priority list, including
12 the status of the achievement and maintenance of environ-
13 mental threshold carrying capacities.

14 (d) CONSISTENCY WITH MEMORANDUM OF UNDER-
15 STANDING.—A project on the priority list shall be con-
16 ducted in accordance with the memorandum of under-
17 standing signed by the Forest Supervisor and the Plan-
18 ning Agency on November 10, 1989, including any amend-
19 ments to the memorandum as long as the memorandum
20 remains in effect.

21 (e) REVIEW OF PRIORITY LIST.—Periodically, but
22 not less often than every 3 years, the Secretary shall—

23 (1) review the priority list;

24 (2) consult with—

25 (A) the Tahoe Regional Planning Agency;

1 (B) interested political subdivisions; and

2 (C) the Lake Tahoe Water Quality and
3 Transportation Coalition; and

4 (3) make any necessary changes with respect
5 to—

6 (A) the findings of scientific research and
7 monitoring in the Lake Tahoe basin;

8 (B) any change in an environmental
9 threshold as determined by the Planning Agen-
10 cy;

11 (C) any change in general environmental
12 conditions in the Lake Tahoe basin; and

13 (D) submit to Congress a report on any
14 changes made.

15 (f) CLEANUP OF HYDROCARBON CONTAMINATION.—

16 (1) IN GENERAL.—The Secretary shall make a
17 payment of \$1,000,000 to the Tahoe Regional Plan-
18 ning Agency and the South Tahoe Public Utility
19 District to develop and publish a plan, not later than
20 1 year after the date of enactment of this Act, for
21 the prevention and cleanup of hydrocarbon contami-
22 nation (including contamination with MTBE) of the
23 surface water and ground water of the Lake Tahoe
24 basin.

1 (2) CONSULTATION.—In developing the plan,
 2 the Tahoe Regional Planning Agency and the South
 3 Tahoe Public Utility District shall consult with the
 4 States of California and Nevada and appropriate po-
 5 litical subdivisions.

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

9 (g) AUTHORIZATION OF APPROPRIATIONS.—There is
 10 authorized to be appropriated, for the implementation of
 11 projects on the priority list, \$20,000,000 for the first fis-
 12 cal year that begins after the date of enactment of this
 13 Act and for each of the 9 fiscal years thereafter.

14 **SEC. 7. ENVIRONMENTAL IMPROVEMENT PAYMENTS.**

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

18 “(g) PAYMENTS TO LOCALITIES.—

19 “(1) IN GENERAL.—The Secretary of Agri-
 20 culture shall make annual payments to the gov-
 21 erning bodies of each of the political subdivisions
 22 (including any public utility the service area of
 23 which includes any part of the Lake Tahoe basin),
 24 any portion of which is located in the area depicted
 25 on the final map filed under section 3(a).

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

3 “(A) first, for erosion control and water
4 quality projects; and

5 “(B) second, unless emergency projects
6 arise, for projects to address other threshold
7 categories after thresholds for water quality and
8 soil conservation have been achieved and main-
9 tained.

10 “(3) ELIGIBILITY FOR PAYMENTS.—

11 “(A) IN GENERAL.—To be eligible for a
12 payment under this subsection, a political sub-
13 division shall annually submit a priority list of
14 proposed projects to the Secretary of Agri-
15 culture.

16 “(B) COMPONENTS OF LIST.—A priority
17 list under subparagraph (A) shall include, for
18 each proposed project listed—

19 “(i) a description of the need for the
20 project;

21 “(ii) all projected costs and benefits;
22 and

23 “(iii) a detailed budget.

24 “(C) USE OF PAYMENTS.—A payment
25 under this subsection shall be used only to

1 carry out a project or proposed project that is
2 part of the environmental improvement pro-
3 gram adopted by the Tahoe Regional Planning
4 Agency in February 1998 and amendments to
5 the program.

6 “(D) FEDERAL OBLIGATION.—All projects
7 funded under this subsection shall be part of
8 Federal obligation under the environmental im-
9 provement program.

10 “(4) DIVISION OF FUNDS.—

11 “(A) IN GENERAL.—The total amounts ap-
12 propriated for payments under this subsection
13 shall be allocated by the Secretary of Agri-
14 culture based on the relative need for and mer-
15 its of projects proposed for payment under this
16 section.

17 “(B) MINIMUM.—To the maximum extent
18 practicable, for each fiscal year, the Secretary
19 of Agriculture shall ensure that each political
20 subdivision in the Lake Tahoe basin receives
21 amounts appropriated for payments under this
22 subsection.

23 “(5) AUTHORIZATION OF APPROPRIATIONS.—In
24 addition to the amounts authorized to be appro-
25 priated to carry out section 6 of the Lake Tahoe

1 Restoration Act, there is authorized to be appro-
2 priated for making payments under this subsection
3 \$10,000,000 for the first fiscal year that begins
4 after the date of enactment of this paragraph and
5 for each of the 9 fiscal years thereafter.”.

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

7 (a) IN GENERAL.—In conducting fire risk reduction
8 activities in the Lake Tahoe basin, the Secretary shall, as
9 appropriate, coordinate with State and local agencies and
10 organizations, including local fire departments and volun-
11 teer groups.

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

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

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

18 (1) shall be in addition to any other amounts
19 available to the Secretary for expenditure in the
20 Lake Tahoe basin; and

21 (2) shall not be drawn from an appropriation
22 for any other unit of the National Forest System.

23 (b) MATCHING REQUIREMENT.—Except as provided
24 in subsection (c), funds for activities under section 6 of
25 this Act and section 2(g) of Public Law 96–586 (94 Stat.

1 3381) shall be available for obligation on a 1-to-1 basis
2 with funding of restoration activities in the Lake Tahoe
3 basin by the States of California and Nevada.

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

9 **SEC. 10. AMENDMENT OF PUBLIC LAW 96–586.**

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

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

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

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

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

21 There are authorized to be appropriated such sums
22 as are necessary to carry out this Act.

○