

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5748

To protect public assets, natural heritage, and native biodiversity on Federal public lands by banning all further degradation, development, and extraction on such lands, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 14, 2002

Ms. MCKINNEY introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committees on Agriculture, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To protect public assets, natural heritage, and native biodiversity on Federal public lands by banning all further degradation, development, and extraction on such lands, 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 “Public Lands Forever  
5        Wild Act”.

6        **SEC. 2. FINDINGS.**

7        The Congress finds the following:

1

2 (1) The Constitution of the State of New York  
3 (Article XIV, Section I) contains a prohibition on ex-  
4 traction on State-owned public lands, which has  
5 served the State and its citizens well and is a good  
6 model for the management of the approximately  
7 650,000,000 acres of Federal public lands.

8 (2) The Federal agencies responsible for the  
9 management of these Federal public lands, primarily  
10 the Forest Service of the Department of Agriculture,  
11 the United States Fish and Wildlife Service and Bu-  
12 reau of Land Management of the Department of the  
13 Interior, and the Tennessee Valley Authority, cur-  
14 rently permit massive corporate extraction on the  
15 vast majority of these public lands without account-  
16 ing for the other assets of these lands.

17 (3) With little or no accounting, let alone hon-  
18 est and fully-costed accounting, vast areas of these  
19 Federal public lands, and the rivers and streams and  
20 other resources on these lands, are being taken, liq-  
21 uidated, or despoiled by private industry at great,  
22 but unaccounted for, public expense.

23 (4) The economic benefits of this corporate ex-  
24 traction are out-weighed by the costs and risks to

1 the public, including risks to human health, welfare,  
2 and survivability.

3 (5) National Forest System lands, a component  
4 of the Federal public lands, serve as the source of  
5 80 percent of America's fresh drinking water.

6 (6) These forests and other Federal public  
7 lands produce much of America's topsoil, replenish  
8 oxygen and water, moderate weather, climate, and  
9 flooding.

10 (7) Surveys indicate that at least 80 percent of  
11 the American public believes that National Forest  
12 System lands are protected in the same manner and  
13 to the same extent as national parks and wants the  
14 Federal public lands, and the rivers and streams and  
15 other resources on these lands, protected from harm.

16 (8) The Federal public lands should be fully  
17 and completely protected from all further develop-  
18 ment and harm and should not be leased, sold or ex-  
19 changed, or be taken by any corporation, public or  
20 private, and the timber, grazing browse, minerals, oil  
21 and gas, and other resource on these lands should  
22 not be sold, removed or destroyed.

1 **SEC. 3. PROHIBITIONS ON COMMERCIAL EXTRACTION ON**  
2 **FEDERAL PUBLIC LANDS.**

3 (a) PROTECTION OF PUBLIC LANDS.—Federal public  
4 lands shall be fully and completely protected from all fur-  
5 ther development and harm, including zero tree cutting,  
6 zero road building, zero logging, zero mining, zero grazing,  
7 zero drilling, zero water degradation, zero motorized trail  
8 development, zero motorized recreation area development,  
9 zero building of commercial recreational buildings, zero al-  
10 lowance of new commercial recreation areas and develop-  
11 ments, zero water diversions and zero dams, and no excep-  
12 tions may be made to these prohibitions. Federal public  
13 lands shall not be leased, sold, or exchanged, or be taken  
14 by any corporation, public or private, nor shall the timber,  
15 grazing browse, minerals, oil and gas, water, or any other  
16 resource thereon be sold, removed, or destroyed.

17 (b) PUBLIC LANDS DEFINED.—In this Act, the term  
18 “Federal public lands” means all federally-owned lands  
19 and waters, now owned or hereafter acquired, within all  
20 National Parks, National Forests, National Grasslands,  
21 National Monuments, National Wildlife Refuges, Bureau  
22 of Land Management lands, Army Corps of Engineers  
23 lands, Tennessee Valley Authority Lands, and National  
24 Wilderness Areas.

25 (c) OTHER MANAGEMENT REQUIREMENTS.—

1           (1) ROADS.—All roads on all Federal public  
2 lands shall be inventoried, a determination shall be  
3 made of those which are essential and those unnec-  
4 essary. Based upon the inventory determination, es-  
5 sential roads shall be identified and maintained and  
6 all others shall be obliterated and revegetated within  
7 10 years after the date of the enactment of this Act.

8           (2) INVENTORIES.—The Federal agencies hav-  
9 ing jurisdiction over Federal public lands shall pre-  
10 pare an inventory of all Federal public lands by  
11 acre, roads, rivers, and streams by mile. The inven-  
12 tory shall include a description of the status and  
13 condition of the lands and a recommendation of  
14 what can or should be done to restore natural condi-  
15 tions on the lands. The inventory and recommenda-  
16 tions shall be completed within two years after the  
17 date of the enactment of this Act.

18           (d) FIRES, INSECTS, DISEASE, AND OTHER NAT-  
19 URAL FORCES.—Fires, insects, disease and other natural  
20 destructive forces shall all be considered acts of nature  
21 and part of a healthy, functioning, and wild ecosystem.  
22 No further attempts to correct for such acts of nature  
23 shall occur on Federal public lands.

24           (e) ENFORCEMENT.—

1           (1) PURPOSE AND FINDING.—The purpose of  
2 this subsection is to foster the widest possible en-  
3 forcement of this section. Congress finds that all  
4 people of the United States are injured by violations  
5 of these prohibitions on Federal public lands.

6           (2) FEDERAL ENFORCEMENT.—The provisions  
7 of this section shall be enforced by the Federal agen-  
8 cies having jurisdiction over Federal public lands  
9 and by the Attorney General of the United States  
10 against any person who violates this Act.

11           (3) CITIZEN SUITS.—Any citizen harmed by a  
12 violation of this section may enforce this section by  
13 bringing an action for declaratory judgment, tem-  
14 porary restraining order, injunction, statutory dam-  
15 ages, and other remedies against any alleged viola-  
16 tor, including the United States, in any district  
17 court of the United States.

18           (4) STANDARD OF PROOF.—The standard of  
19 proof in all actions brought under this subsection  
20 shall be the preponderance of the evidence and the  
21 trial shall be de novo.

22           (5) DAMAGE AWARD.—The court, after deter-  
23 mining a violation of this section, shall impose a  
24 damage award of not less than \$5,000 nor more  
25 than 1,000 times the value of the damaged or lost

1 public assets, shall issue one or more injunctions and  
2 other equitable relief, and shall award to the plain-  
3 tiffs reasonable costs of the litigation, including at-  
4 torney's fees, witness fees, and other necessary ex-  
5 penses. The court shall have the authority to order  
6 seizure and forfeiture of all assets, including cor-  
7 porate assets, belonging to the violator involved in  
8 any way in the commission of the violation. The  
9 damage award shall be paid by the violator or viola-  
10 tors designated by the court to the United States  
11 Treasury. The damage award shall be paid from the  
12 United States Treasury, as provided by Congress  
13 under section 1304 of title 31, United States Code,  
14 within 40 days after judgment to the person or per-  
15 sons designated to receive it, to be applied in pro-  
16 tecting or restoring native biodiversity in or adjoin-  
17 ing Federal public lands. Any award of costs of liti-  
18 gation and any award of attorney fees shall be paid  
19 within 40 days after judgment.

20 (6) WAIVER.—The United States, including its  
21 agents and employees, waives its sovereign immunity  
22 in all respects in all actions under this subsection.  
23 No notice is required to enforce this section.

1 **SEC. 4. EFFECTIVE DATE.**

2       This Act shall take effect on the date of the enact-  
3 ment of this Act.

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