

114TH CONGRESS
2D SESSION

S. 3014

To improve the management of Indian forest land, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 26, 2016

Mr. DAINES introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To improve the management of Indian forest land, 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 “Tribal Forestry Par-
5 ticipation and Protection Act of 2016”.

6 **SEC. 2. PROTECTION OF TRIBAL FOREST ASSETS THROUGH**
7 **USE OF STEWARDSHIP END RESULT CON-**
8 **TRACTING AND OTHER AUTHORITIES.**

9 (a) PROMPT CONSIDERATION OF TRIBAL RE-
10 QUESTS.—Section 2(b) of the Tribal Forest Protection
11 Act of 2004 (25 U.S.C. 3115a(b)) is amended—

1 (1) in paragraph (1), by striking “Not later
2 than 120 days after the date on which an Indian
3 tribe submits to the Secretary” and inserting “In re-
4 sponse to the submission by an Indian tribe to the
5 Secretary of”; and

6 (2) by adding at the end the following:

7 “(4) TIME PERIODS FOR CONSIDERATION.—

8 “(A) INITIAL RESPONSE.—Not later than
9 90 days after the date on which the Secretary
10 receives a tribal request under paragraph (1),
11 the Secretary shall provide an initial response
12 to the Indian tribe regarding whether the re-
13 quest may meet the selection criteria described
14 in subsection (c).

15 “(B) NOTICE OF DENIAL.—A notice under
16 subsection (d) of the denial of a tribal request
17 under paragraph (1) shall be provided to the
18 Indian tribe by not later than 1 year after the
19 date on which the Secretary receives the re-
20 quest.

21 “(C) COMPLETION.—Not later than 2
22 years after the date on which the Secretary re-
23 ceives a tribal request under paragraph (1),
24 other than a tribal request denied under sub-
25 section (d), the Secretary shall—

1 “(i) complete all environmental re-
2 views necessary in connection with the
3 agreement or contract and proposed activi-
4 ties under the agreement or contract; and

5 “(ii) enter into the agreement or con-
6 tract with the Indian tribe in accordance
7 with paragraph (2).”.

8 (b) CONFORMING AND TECHNICAL AMENDMENTS.—
9 Section 2 of the Tribal Forest Protection Act of 2004 (25
10 U.S.C. 3115a) is amended—

11 (1) in subsections (b)(1) and (f)(1), by striking
12 “section 347 of the Department of the Interior and
13 Related Agencies Appropriations Act, 1999 (16
14 U.S.C. 2104 note; Public Law 105–277) (as amend-
15 ed by section 323 of the Department of the Interior
16 and Related Agencies Appropriations Act, 2003 (117
17 Stat. 275))” each place it appears and inserting
18 “section 604 of the Healthy Forests Restoration Act
19 of 2003 (16 U.S.C. 6591c)”;

20 (2) in subsection (d), in the matter preceding
21 paragraph (1), by striking “subsection (b)(1), the
22 Secretary may” and inserting “paragraphs (1) and
23 (4)(B) of subsection (b), the Secretary shall”.

1 **SEC. 3. PILOT AUTHORITY FOR RESTORATION OF FEDERAL**
 2 **FOREST LAND BY INDIAN TRIBES.**

3 (a) IN GENERAL.—Section 305 of the National In-
 4 dian Forest Resources Management Act (25 U.S.C. 3104)
 5 is amended by adding at the end the following:

6 “(c) INCLUSION OF CERTAIN NATIONAL FOREST
 7 SYSTEM LAND AND PUBLIC LAND.—

8 “(1) PURPOSES.—The purposes of this sub-
 9 section are—

10 “(A) to maximize the effective manage-
 11 ment of Federal forest land and to assist in the
 12 restoration of that land in accordance with the
 13 principles of sustained yield; and

14 “(B) to reduce insect, disease, or wildfire
 15 risk to communities, municipal water supplies,
 16 and other at-risk Federal land by providing for
 17 the implementation by Indian tribes of forest
 18 restoration projects.

19 “(2) DEFINITIONS.—In this subsection:

20 “(A) FEDERAL FOREST LAND.—

21 “(i) IN GENERAL.—The term ‘Federal
 22 forest land’ means—

23 “(I) National Forest System
 24 land; and

25 “(II) public lands (as defined in
 26 section 103 of the Federal Land Pol-

1 icy and Management Act of 1976 (43
2 U.S.C. 1702)), including—

3 “(aa) Coos Bay Wagon
4 Road Grant land reconveyed to
5 the United States pursuant to
6 the first section of the Act of
7 February 26, 1919 (40 Stat.
8 1179, chapter 47); and

9 “(bb) Oregon and California
10 Railroad Grant land.

11 “(ii) EXCLUSIONS.—The term ‘Fed-
12 eral forest land’ does not include—

13 “(I) a component of the National
14 Wilderness Preservation System;

15 “(II) a component of the Na-
16 tional Wild and Scenic Rivers System;

17 “(III) a congressionally des-
18 ignated wilderness study area; or

19 “(IV) an inventoried roadless
20 area within the National Forest Sys-
21 tem.

22 “(B) FOREST LAND MANAGEMENT ACTIVI-
23 TIES.—The term ‘forest land management ac-
24 tivities’ means activities performed in the man-

1 agement of Indian forest land described in sub-
2 paragraphs (C), (D), and (E) of section 304(4).

3 “(C) SECRETARY CONCERNED.—The term
4 ‘Secretary concerned’ means—

5 “(i) the Secretary of Agriculture, with
6 respect to the Federal forest land referred
7 to in subparagraph (A)(i)(I); and

8 “(ii) the Secretary of the Interior,
9 with respect to the Federal forest land re-
10 ferred to in subparagraph (A)(i)(II).

11 “(3) AUTHORITY.—

12 “(A) IN GENERAL.—At the request of an
13 Indian tribe, the Secretary concerned may treat
14 Federal forest land as Indian forest land for
15 purposes of planning and conducting forest land
16 management activities under this section if the
17 Federal forest land is located within, or mostly
18 within, a geographical area that presents a fea-
19 ture or involves circumstances principally rel-
20 evant to that Indian tribe, such as Federal for-
21 est land—

22 “(i) ceded to the United States by
23 treaty or other agreement with that Indian
24 tribe;

1 “(ii) within the boundaries of a cur-
2 rent or former reservation of that Indian
3 tribe; or

4 “(iii) adjudicated by the Indian
5 Claims Commission or a Federal court to
6 be the tribal homeland of that Indian tribe.

7 “(B) MANAGEMENT.—Federal forest land
8 treated as Indian forest land for purposes of
9 planning and conducting management activities
10 pursuant to subparagraph (A) shall—

11 “(i) be managed exclusively under this
12 Act; and

13 “(ii) remain under the ownership of
14 the Federal agency that owned the Federal
15 forest land on the day before the date of
16 enactment of this subsection.

17 “(4) REQUIREMENTS.—As part of an agree-
18 ment to treat Federal forest land as Indian forest
19 land under paragraph (3), the Secretary concerned
20 and the Indian tribe making the request shall—

21 “(A) provide for continued public access
22 and recreation applicable to the Federal forest
23 land as in existence prior to the agreement, ex-
24 cept that the Secretary concerned may limit or
25 prohibit that access only for the purpose of—

1 “(i) protecting human safety; or

2 “(ii) preventing harm to natural re-
3 sources;

4 “(B) continue sharing revenue generated
5 by the Federal forest land with State and local
6 governments on the terms applicable to the
7 Federal forest land prior to the agreement, in-
8 cluding, as applicable—

9 “(i) 25-percent payments under the
10 Secure Rural Schools and Community Self-
11 Determination Act of 2000 (16 U.S.C.
12 7101 et seq.); or

13 “(ii) 50-percent payments under the
14 Act of August 28, 1937 (43 U.S.C. 1181a
15 et seq.);

16 “(C) comply with applicable prohibitions
17 on the export of unprocessed logs harvested
18 from the Federal forest land;

19 “(D) recognize all right-of-way agreements
20 in place on Federal forest land as in existence
21 prior to the commencement of tribal manage-
22 ment activities;

23 “(E) ensure that any county road within
24 the Federal forest land as in existence prior to
25 the agreement is not adversely impacted; and

1 “(F) ensure that all commercial timber re-
2 moved from the Federal forest land is sold on
3 a competitive bid basis.

4 “(5) PROMPT CONSIDERATION OF TRIBAL RE-
5 QUESTS.—Not later than 180 days after the date on
6 which the Secretary receives a request from an In-
7 dian tribe under paragraph (3)(A), the Secretary
8 shall—

9 “(A) approve or deny the request; and

10 “(B) if the Secretary approves the request,
11 begin exercising the authority under that para-
12 graph.

13 “(6) CONSULTATION.—To the extent consistent
14 with the laws governing the administration of public
15 lands (as defined in section 103 of the Federal Land
16 Policy and Management Act of 1976 (43 U.S.C.
17 1702)), the Secretary concerned shall consult with
18 each State and unit of local government within
19 which Federal forest land is located—

20 “(A) before entering into an agreement to
21 treat the Federal forest land as Indian forest
22 land under paragraph (3); and

23 “(B) with respect to an agreement de-
24 scribed in subparagraph (A), in planning and

1 conducting forest land management activities
2 under this section.

3 “(7) FOREST MANAGEMENT PLANS.—All forest
4 land management activities under this subsection on
5 National Forest System land shall be consistent with
6 the applicable forest plan.

7 “(8) LIMITATIONS.—The treatment of Federal
8 forest land as Indian forest land for purposes of
9 planning and conducting management activities pur-
10 suant to paragraph (3)—

11 “(A) shall not be considered to designate
12 the Federal forest land as Indian forest land for
13 any other purpose; and

14 “(B) shall be in accordance with all rel-
15 evant Federal laws applicable to Federal forest
16 land, including—

17 “(i) the National Environmental Pol-
18 icy Act of 1969 (42 U.S.C. 4321 et seq.);

19 “(ii) the Endangered Species Act of
20 1973 (16 U.S.C. 1531 et seq.);

21 “(iii) the Federal Water Pollution
22 Control Act (33 U.S.C. 1251 et seq.); and

23 “(iv) the Clean Air Act (42 U.S.C.
24 7401 et seq.).

1 “(9) APPLICABILITY OF NEPA.—The execution
2 of, but not the decision to enter into, an agreement
3 to treat Federal forest land as Indian forest land
4 under paragraph (3) shall constitute a Federal ac-
5 tion for purposes of the National Environmental
6 Policy Act of 1969 (42 U.S.C. 4321 et seq.).

7 “(10) TERMINATION OF AUTHORITY.—The au-
8 thority provided by this subsection terminates on the
9 date that is 10 years after the date of enactment of
10 this subsection.”.

11 (b) EFFECT.—Nothing in this section or an amend-
12 ment made by this section—

13 (1) prohibits, restricts, or otherwise adversely
14 affects any permit, lease, or similar agreement in ef-
15 fect on or after the date of enactment of this Act for
16 the use of Federal land for the purpose of recre-
17 ation, utilities, logging, mining, oil, gas, grazing,
18 water rights, or any other purpose;

19 (2) negatively impacts private land; or

20 (3) prohibits, restricts, or otherwise adversely
21 affects the authority, jurisdiction, or responsibility of
22 a State to manage, control, or regulate under State
23 law fish and wildlife on land or in water in the
24 State, including on Federal public land.

1 **SEC. 4. TRIBAL FOREST MANAGEMENT DEMONSTRATION**
2 **PROJECT.**

3 The Secretary of the Interior and the Secretary of
4 Agriculture may carry out demonstration projects pursu-
5 ant to which federally recognized Indian tribes or tribal
6 organizations may enter into contracts to carry out admin-
7 istrative, management, and other functions under the
8 Tribal Forest Protection Act of 2004 (25 U.S.C. 3115a
9 et seq.), through contracts entered into under the Indian
10 Self-Determination and Education Assistance Act (25
11 U.S.C. 450 et seq.).

12 **SEC. 5. FUNDING.**

13 The Secretary of the Interior and the Secretary of
14 Agriculture shall use to carry out this Act and amend-
15 ments made by this Act such amounts as are necessary
16 from other amounts available to the Secretary of the Inte-
17 rior or the Secretary of Agriculture, respectively, that are
18 not otherwise obligated.

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