

## Union Calendar No. 292

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

# H. R. 3846

**[Report No. 108-509, Part I]**

To authorize the Secretary of Agriculture and the Secretary of the Interior to enter into an agreement or contract with Indian tribes meeting certain criteria to carry out projects to protect Indian forest land.

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### IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 26, 2004

Mr. POMBO (for himself, Mr. RENZI, Mr. BACA, Mr. PEARCE, Mr. UDALL of Colorado, Mr. NUNES, Mr. UDALL of New Mexico, and Mr. DOOLEY of California) introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Agriculture, 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

MAY 20, 2004

Additional sponsor: Mr. WALDEN of Oregon

MAY 20, 2004

Reported from the Committee on Resources with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

MAY 20, 2004

Referral to the Committee on Agriculture extended for a period ending not later than May 20, 2004

MAY 20, 2004

The Committee on Agriculture discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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# A BILL

To authorize the Secretary of Agriculture and the Secretary of the Interior to enter into an agreement or contract with Indian tribes meeting certain criteria to carry out projects to protect Indian forest land.

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 Forest Protection*  
5 *Act of 2004”.*

6 **SEC. 2. TRIBAL FOREST ASSETS PROTECTION.**

7        (a) *DEFINITIONS.—In this section:*

8            (1) *FEDERAL LAND.—The term “Federal land”*  
9 *means—*

10            (A) *land of the National Forest System (as*  
11 *defined in section 11(a) of the Forest and Range-*  
12 *land Renewable Resources Planning Act of 1974*  
13 *(16 U.S.C. 1609(a)) administered by the Sec-*  
14 *retary of Agriculture, acting through the Chief of*  
15 *the Forest Service; and*

16            (B) *public lands (as defined in section 103*  
17 *of the Federal Land Policy and Management Act*  
18 *of 1976 (43 U.S.C. 1702)), the surface of which*

1           *is administered by the Secretary of the Interior,*  
2           *acting through the Director of the Bureau of*  
3           *Land Management.*

4           (2) *INDIAN FOREST LAND OR RANGELAND.*—*The*  
5           *term “Indian forest land or rangeland” means land*  
6           *that—*

7                   *(A) is held in trust by, or with a restriction*  
8                   *against alienation by, the United States for an*  
9                   *Indian tribe or a member of an Indian tribe;*  
10                  *and*

11                   *(B)(i)(I) is Indian forest land (as defined*  
12                   *in section 304 of the National Indian Forest Re-*  
13                   *sources Management Act (25 U.S.C. 3103)); or*

14                   *(II) has a cover of grasses, brush, or any*  
15                   *similar vegetation; or*

16                   *(ii) formerly had a forest cover or vegetative*  
17                   *cover that is capable of restoration.*

18           (3) *INDIAN TRIBE.*—*The term “Indian tribe” has*  
19           *the meaning given the term in section 4 of the Indian*  
20           *Self-Determination and Education Assistance Act (25*  
21           *U.S.C. 450b).*

22           (4) *SECRETARY.*—*The term “Secretary”*  
23           *means—*

1           (A) *the Secretary of Agriculture, with re-*  
2           *spect to land under the jurisdiction of the Forest*  
3           *Service; and*

4           (B) *the Secretary of the Interior, with re-*  
5           *spect to land under the jurisdiction of the Bu-*  
6           *reau of Land Management.*

7           (b) *AUTHORITY TO PROTECT INDIAN FOREST LAND OR*  
8           *RANGELAND.—*

9           (1) *IN GENERAL.—Not later than 120 days after*  
10          *the date on which an Indian tribe submits to the Sec-*  
11          *retary a request to enter into an agreement or con-*  
12          *tract to carry out a project to protect Indian forest*  
13          *land or rangeland (including a project to restore Fed-*  
14          *eral land that borders on or is adjacent to Indian for-*  
15          *est land or rangeland) that meets the criteria de-*  
16          *scribed in subsection (c), the Secretary may issue*  
17          *public notice of initiation of any necessary environ-*  
18          *mental review or of the potential of entering into an*  
19          *agreement or contract with the Indian tribe pursuant*  
20          *to section 347 of the Department of the Interior and*  
21          *Related Agencies Appropriations Act, 1999 (16*  
22          *U.S.C. 2104 note; Public Law 105–277) (as amended*  
23          *by section 323 of the Department of the Interior and*  
24          *Related Agencies Appropriations Act, 2003 (117 Stat.*  
25          *275)), or such other authority as appropriate, under*

1       *which the Indian tribe would carry out activities de-*  
2       *scribed in paragraph (3).*

3               (2) *ENVIRONMENTAL ANALYSIS.*—*Following com-*  
4       *pletion of any necessary environmental analysis, the*  
5       *Secretary may enter into an agreement or contract*  
6       *with the Indian tribe as described in paragraph (1).*

7               (3) *ACTIVITIES.*—*Under an agreement or con-*  
8       *tract entered into under paragraph (2), the Indian*  
9       *tribe may carry out activities to achieve land man-*  
10       *agement goals for Federal land that is—*

11                       (A) *under the jurisdiction of the Secretary;*

12                       *and*

13                       (B) *bordering or adjacent to the Indian for-*  
14       *est land or rangeland under the jurisdiction of*  
15       *the Indian tribe.*

16               (c) *SELECTION CRITERIA.*—*The criteria referred to in*  
17       *subsection (b), with respect to an Indian tribe, are wheth-*  
18       *er—*

19                       (1) *the Indian forest land or rangeland under*  
20       *the jurisdiction of the Indian tribe borders on or is*  
21       *adjacent to land under the jurisdiction of the Forest*  
22       *Service or the Bureau of Land Management;*

23                       (2) *Forest Service or Bureau of Land Manage-*  
24       *ment land bordering on or adjacent to the Indian for-*

1 *est land or rangeland under the jurisdiction of the In-*  
2 *dian tribe—*

3 *(A) poses a fire, disease, or other threat to—*

4 *(i) the Indian forest land or rangeland*  
5 *under the jurisdiction of the Indian tribe;*

6 *or*

7 *(ii) a tribal community; or*

8 *(B) is in need of land restoration activities;*

9 *(3) the agreement or contracting activities ap-*  
10 *plied for by the Indian tribe are not already covered*  
11 *by a stewardship contract or other instrument that*  
12 *would present a conflict on the subject land; and*

13 *(4) the Forest Service or Bureau of Land Man-*  
14 *agement land described in the application of the In-*  
15 *dian tribe presents or involves a feature or cir-*  
16 *cumstance unique to that Indian tribe (including*  
17 *treaty rights or biological, archaeological, historical,*  
18 *or cultural circumstances).*

19 *(d) NOTICE OF DENIAL.—If the Secretary denies a*  
20 *tribal request under subsection (b)(1), the Secretary may*  
21 *issue a notice of denial to the Indian tribe, which—*

22 *(1) identifies the specific factors that caused, and*  
23 *explains the reasons that support, the denial;*

24 *(2) identifies potential courses of action for over-*  
25 *coming specific issues that led to the denial; and*

1           (3) proposes a schedule of consultation with the  
2           Indian tribe for the purpose of developing a strategy  
3           for protecting the Indian forest land or rangeland of  
4           the Indian tribe and interests of the Indian tribe in  
5           Federal land.

6           (e) *PROPOSAL EVALUATION AND DETERMINATION FAC-*  
7           *TORS.*—In entering into an agreement or contract in re-  
8           sponse to a request of an Indian tribe under subsection  
9           (b)(1), the Secretary may—

10           (1) use a best-value basis; and

11           (2) give specific consideration to tribally-related  
12           factors in the proposal of the Indian tribe, includ-  
13           ing—

14           (A) the status of the Indian tribe as an In-  
15           dian tribe;

16           (B) the trust status of the Indian forest  
17           land or rangeland of the Indian tribe;

18           (C) the cultural, traditional, and historical  
19           affiliation of the Indian tribe with the land sub-  
20           ject to the proposal;

21           (D) the treaty rights or other reserved rights  
22           of the Indian tribe relating to the land subject to  
23           the proposal;

24           (E) the indigenous knowledge and skills of  
25           members of the Indian tribe;

1           (F) the features of the landscape of the land  
2           subject to the proposal, including watersheds and  
3           vegetation types;

4           (G) the working relationships between the  
5           Indian tribe and Federal agencies in coordi-  
6           nating activities affecting the land subject to the  
7           proposal; and

8           (H) the access by members of the Indian  
9           tribe to the land subject to the proposal.

10          (f) *NO EFFECT ON EXISTING AUTHORITY.*—Nothing in  
11 *this Act*—

12           (1) prohibits, restricts, or otherwise adversely af-  
13           fects the participation of any Indian tribe in stew-  
14           ardship agreements or contracting under the author-  
15           ity of section 347 of the Department of the Interior  
16           and Related Agencies Appropriations Act, 1999 (16  
17           U.S.C. 2104 note; Public Law 105–277) (as amended  
18           by section 323 of the Department of the Interior and  
19           Related Agencies Appropriations Act, 2003 (117 Stat.  
20           275)) or other authority invoked pursuant to this Act;  
21           or

22           (2) invalidates any agreement or contract under  
23           that authority.

24          (g) *REPORT.*—Not later than 4 years after the date  
25 *of enactment of this Act, the Secretary shall submit to Con-*

1 *gress a report that describes the Indian tribal requests re-*  
2 *ceived and agreements or contracts that have been entered*  
3 *into under this Act.*

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