

109TH CONGRESS
1ST SESSION

H. R. 3701

To assure that the American people have large areas of land in healthy natural condition throughout the country to provide wildland recreational opportunities for people, provide habitat protection for native wildlife and natural plant communities, and to contribute to a preservation of water for use by downstream metropolitan communities and other users, through the establishment of a National Forest Ecosystem Protection Program composed of lands within existing wilderness areas and adjacent primitive areas, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 8, 2005

Mr. ANDREWS (for himself, Mr. LEWIS of Georgia, Mr. HOLT, Mr. PALLONE, Mr. PAYNE, and Mr. PASCRELL) introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committee on Resources, 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

A BILL

To assure that the American people have large areas of land in healthy natural condition throughout the country to provide wildland recreational opportunities for people, provide habitat protection for native wildlife and natural plant communities, and to contribute to a preservation of water for use by downstream metropolitan communities and other users, through the establishment of a National Forest Ecosystem Protection Program com-

posed of lands within existing wilderness areas and adjacent primitive areas, 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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
 5 “Ecosystem Protection Act of 2005”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
 7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. National Forest Ecosystem Protection Program.
- Sec. 3. Special management considerations.
- Sec. 4. Land acquisition authority.
- Sec. 5. Voluntary grazing permit buyout program.
- Sec. 6. Forest plan revision assessments.
- Sec. 7. Original Ecosystem Protection Areas.
- Sec. 8. Delineation of primitive areas on eastern National Forest System lands.
- Sec. 9. Delineation of primitive areas on western National Forest System lands.
- Sec. 10. Compatible management of adjacent Department of the Interior lands.
- Sec. 11. Development of State Ecosystem Protection Areas.
- Sec. 12. Availability of Forest Service funds and cooperation with land trusts.
- Sec. 13. Reporting requirements.
- Sec. 14. Authorization of appropriations.

8 **SEC. 2. NATIONAL FOREST ECOSYSTEM PROTECTION PRO-**
 9 **GRAM.**

10 (a) **DECLARATION OF POLICY.**—In order to assure
 11 that the American people have large areas of land in
 12 healthy natural condition throughout the country, which
 13 lands provide wildland recreational opportunities for peo-
 14 ple, provide habitat protection for native wildlife and nat-
 15 ural plant communities, and contribute to a preservation
 16 of water for use by downstream metropolitan communities
 17 and other users, it is hereby declared to be the policy of

1 Congress to secure for present and future generations of
2 Americans the enduring resource of protected large wild
3 lands.

4 (b) ESTABLISHMENT.—To help achieve the policy de-
5 clared in subsection (a), there is hereby established a Na-
6 tional Forest Ecosystem Protection Program to be com-
7 posed of lands within existing units of the National Forest
8 System that contain one or more large existing wilderness
9 areas as a core area and a primitive area extending out-
10 ward therefrom, both of which will be designated as Eco-
11 system Protection Areas by this Act or a subsequent Act
12 of Congress.

13 **SEC. 3. SPECIAL MANAGEMENT CONSIDERATIONS.**

14 (a) WILDERNESS AREA MANAGEMENT.—Within the
15 Ecosystem Protection Areas, the Secretary of Agriculture,
16 acting through the Forest Service (in this Act referred to
17 as the “Secretary”), shall manage the wilderness areas as
18 provided by the Wilderness Act (16 U.S.C. 1131 et seq.)
19 and other applicable laws, except that, with regard to com-
20 mercial grazing in such wilderness areas, the Secretary
21 shall pursue the voluntary buyout of grazing permits as
22 provided in section 5.

23 (b) PRIMITIVE AREA MANAGEMENT.—Within the
24 Ecosystem Protection Areas, the Secretary shall manage
25 the primitive areas so that primitive recreation, the preser-

1 vation of native wildlife and plants, the protection of habi-
2 tat for endangered and threatened species, and reforest-
3 ation and restoration of wilderness characteristics will be
4 the paramount considerations and that all other multiple
5 use activities will only be used to reinforce the paramount
6 considerations. With regard to commercial grazing in such
7 primitive areas, the Secretary shall pursue the voluntary
8 buyout of grazing permits as provided in section 5.

9 (c) PROTECTION AND RESTORATION.—The Sec-
10 retary, in consultation with State wildlife officials and
11 through the use of a public participation process, shall
12 promote the reestablishment or protection of as many ani-
13 mal and plant species native to the designated Ecosystem
14 Protection Areas as practical.

15 (d) RETIREMENT OF GRAZING ALLOTMENTS FOR
16 WHICH NO VALID GRAZING PERMIT EXISTS.—The Sec-
17 retary shall not issue grazing permits for lands within a
18 Ecosystem Protection Area for which no valid permit ex-
19 ists as of the date of the enactment of this Act. The Sec-
20 retary shall permanently retire those lands from domestic
21 livestock grazing use notwithstanding any other provision
22 of law.

23 **SEC. 4. LAND ACQUISITION AUTHORITY.**

24 (a) ACQUISITION AUTHORIZED.—The Secretary shall
25 strive to acquire all private lands, all mineral rights not

1 owned by the United States, and all other interests in
2 lands not owned by the United States, on a willing-seller/
3 willing-buyer basis, located within any wilderness area
4 specified in this Act and within the primitive areas delin-
5 eated pursuant to this Act.

6 (b) VOLUNTARY BASE PROPERTY ACQUISITION.—If
7 a person who waives a grazing permit under section 5 also
8 owns a base property for the waived allotment which is
9 located within the boundaries of a unit of the National
10 Forest System, the person may offer that property for sale
11 to the Secretary, and the Secretary shall purchase that
12 property under this section.

13 **SEC. 5. VOLUNTARY GRAZING PERMIT BUYOUT PROGRAM.**

14 (a) WAIVER OF EXISTING GRAZING PERMITS.—A
15 livestock operator who holds a valid term grazing permit
16 (in this section referred to as a “permittee”) may waive
17 to the Secretary, at any time, a valid existing grazing per-
18 mit authorizing livestock grazing on National Forest Sys-
19 tem lands included in an Ecosystem Protection Area.

20 (b) CANCELLATION OF WAIVED GRAZING PERMIT.—
21 The Secretary shall cancel grazing permits waived under
22 this section and permanently retire the associated allot-
23 ments from domestic livestock grazing use notwith-
24 standing any other provision of law.

1 (c) COMPENSATION REQUIRED; AMOUNT.—Except as
2 provided in subsection (d), a permittee who waives a graz-
3 ing permit under subsection (a) shall be compensated at
4 \$175 per animal unit month, based on the average grazing
5 use over the preceding 10 years the allotment was grazed,
6 as stipulated by the grazing permit and paid for by the
7 permittee or the predecessors of the permittee. Years of
8 grazing non-use are excluded from this average. If a per-
9 mittee is in arrears of Federal grazing fees, the amount
10 of fees in arrears shall be deducted from the amount of
11 compensation otherwise due the permittee under this sec-
12 tion.

13 (d) ADDITIONAL COMPENSATION FOR PROMPT WAIV-
14 ER.—A permittee who waives a grazing permit under this
15 section during the six-month period beginning on the date
16 of the enactment of this Act shall be compensated at \$300
17 per animal unit month, and a permittee who waives a
18 grazing permit under this section after the end of such
19 six-month period, but before the end of the four-year pe-
20 riod beginning on the date of the enactment of this bill
21 Act, be compensated at the rate of \$250 per animal unit
22 month. The other provisions of this section shall apply to
23 any permittee who takes advantage of the higher com-
24 pensation offered by this subsection.

1 (e) PUBLIC NOTICE.—Not later than three months
2 after the date of the enactment of this Act, the Secretary
3 shall notify every permittee whose allotment is located
4 within an Ecosystem Protection area that the permittee
5 is eligible for the voluntary grazing permit buyout author-
6 ized by this section. The notification shall include the op-
7 tions available to permittees under this section and section
8 4(b). During the same time period, the names and loca-
9 tions of the allotments shall be printed in the local news-
10 papers.

11 (f) RELATION TO OTHER AUTHORITY.—Nothing in
12 this Act shall be construed to affect the Secretary’s au-
13 thority to otherwise modify or terminate grazing permits
14 without compensation. Compensation disbursed pursuant
15 to this section shall not create a property right for permit-
16 tees.

17 (g) DEFINITIONS.—In this section:

18 (1) The term “animal unit month” means the
19 amount of forage needed to sustain one animal unit
20 for one month, as determined by the Secretary.

21 (2) The terms “grazing permit” means any doc-
22 ument authorizing the use of National Forest Sys-
23 tem land for the purpose of grazing domestic live-
24 stock.

1 **SEC. 6. FOREST PLAN REVISION ASSESSMENTS.**

2 (a) ASSESSMENTS REQUIRED.—In any Ecosystem
3 Protection Area located east of the 104th meridian in the
4 contiguous 48 States, the Secretary shall include the fol-
5 lowing assessments as part of the first round of Forest
6 Service land and resource management plan revisions for
7 each of these areas made after the date of the enactment
8 of this Act:

9 (1) An assessment of expanding the designated
10 wilderness area or creating new wilderness areas in
11 all the primitive areas created by this Act.

12 (2) An assessment of the ecological benefit to
13 be derived from closing any unimproved roads bi-
14 secting any such areas within encircling improved
15 roads and from closing any improved roads cherry
16 stemmed into those areas.

17 (3) An assessment of the appropriate manage-
18 ment practices most likely to improve habitat for key
19 species in any of the above described areas, if those
20 areas are not to be proposed to Congress as new wil-
21 derness areas.

22 (b) PUBLIC PARTICIPATION.—Each assessment re-
23 quired by this section shall utilize all the procedures de-
24 signed to provide public input into the Forest Service plan-
25 ning process.

1 **SEC. 7. ORIGINAL ECOSYSTEM PROTECTION AREAS.**

2 (a) IN GENERAL.—The original Ecosystem Protec-
3 tion Areas include one or more of the largest existing Na-
4 tional Forest System wilderness areas in the following
5 States and the surrounding primitive areas delineated as
6 provided in section 8 or 9.

7 (b) DESIGNATION.—The Ecosystem Protection
8 Areas, and the wilderness area forming the their core, are
9 as follows:

10 (1) Alabama: Sipsey.

11 (2) Arizona:

12 (A) Mazatzal.

13 (B) Blue Range (also in New Mexico), in-
14 cluding the Blue Range Primitive Area.

15 (C) Chiricahua.

16 (3) Arkansas:

17 (A) Hurricane Creek.

18 (B) Upper Kiamichi (also in Oklahoma).

19 (4) California:

20 (A) High Sierra, including John Muir,
21 Ansel Adams, Golden Trout, Monarch, Dinkey
22 Lakes, South Sierra, Dome Land, Hoover and
23 Emigrant.

24 (B) Trinity Alps.

25 (5) Colorado:

26 (A) Weminuche.

1 (B) West Elk.

2 (C) South San Juan.

3 (6) Florida:

4 (A) Big Gum Swamp.

5 (B) Bradwell Bay.

6 (7) Georgia:

7 (A) Cohutta (also in Tennessee).

8 (B) Southern Nantahala (also in North
9 Carolina).

10 (8) Idaho:

11 (A) Central Idaho Massif, including Frank
12 Church-River of No Return, Selway-Bitterroot
13 (also in Montana), and Gospel Hump.

14 (B) Hells Canyon (also in Oregon).

15 (9) Indiana: Charles C. Deam.

16 (10) Kentucky: Clifty.

17 (11) Maine: Caribou-Speckled Mountain.

18 (12) Michigan: Sylvania.

19 (13) Minnesota: Boundary Waters Canoe Area.

20 (14) Missouri: Irish.

21 (15) Montana:

22 (A) Montana Rockies, including Bob Mar-
23 shal, Great Bear, and Scapegoat.

24 (B) Central Idaho Massif, including
25 Selway-Bitterroot (also in Idaho).

- 1 (C) Yellowstone, including Lee Metcalf and
2 Absaroka-Beartooth (also in Wyoming).
- 3 (16) Nevada: Arc Dome.
- 4 (17) New Hampshire:
- 5 (A) Pemiwegasset.
- 6 (B) Presidential Range-Dry River.
- 7 (C) Sandwich Range.
- 8 (18) New Mexico:
- 9 (A) Gila, including Gila and Aldo Leopold.
- 10 (B) Blue Range (also in Arizona).
- 11 (19) North Carolina:
- 12 (A) Citico Creek (also in Tennessee), in-
13 cluding Joyce Kilmer-Slickrock.
- 14 (B) Southern Nantahala (also in Georgia).
- 15 (20) Oklahoma: Upper Kiamichi (also in Arkan-
16 sas).
- 17 (21) Oregon: Hells Canyon, including Hells
18 Canyon (also in Idaho) and Eagle Cap.
- 19 (22) Pennsylvania: Hickory Creek.
- 20 (23) Tennessee:
- 21 (A) Cohutta, including Big Frog (also in
22 Georgia).
- 23 (B) Citico Creek, including Joyce Kilmer-
24 Slickrock (also in North Carolina).
- 25 (24) Texas:

- 1 (A) Upland Island.
- 2 (B) Indian Mounds.
- 3 (25) Utah: High Uintas.
- 4 (26) Vermont:
- 5 (A) Breadloaf.
- 6 (B) Lyle Brook.
- 7 (27) Virginia: Mountain Lake (also in West
- 8 Virginia).
- 9 (28) Washington: North Cascades, including
- 10 Glacier Peak, Pasayten, Lake Chelan-Sawtooth, Mt.
- 11 Baker, and Noisy Diobsud.
- 12 (29) West Virginia:
- 13 (A) Cranberry.
- 14 (B) Mountain Lake (also in Virginia).
- 15 (30) Wisconsin: Headwaters.
- 16 (31) Wyoming:
- 17 (A) Yellowstone, including Washakie,
- 18 Teton, North Absaroka, Winegar Hole, Jeddiah
- 19 Smith, Absaroka-Beartooth (also in Montana)
- 20 and Lee Metcalf (wholly in Montana).
- 21 (B) Wind River, including Bridger,
- 22 Fitzpatrick and Popo Agie.

1 **SEC. 8. DELINEATION OF PRIMITIVE AREAS ON EASTERN**
2 **NATIONAL FOREST SYSTEM LANDS.**

3 (a) **DELINEATION REQUIRED; TIMETABLE.**—In the
4 case of units of the National Forest System located east
5 of the 104th meridian in the contiguous 48 States, the
6 Secretary shall delineate primitive areas around core wil-
7 derness areas as soon as practicable, but in no case more
8 than three years after the date of the enactment of this
9 Act, as an amendment to the applicable land and resource
10 management plan.

11 (b) **CONTENT.**—The primitive areas delineated under
12 this section shall include all areas from the wilderness
13 boundary out to the nearest improved roads on all sides
14 of the wilderness area and enough additional acreage to
15 result in an Ecosystem Protection Area that is at least
16 50,000 acres and at least twice as large as the core wilder-
17 ness area. In all cases, the primitive area shall be as com-
18 pact as possible and designed to include as many natural
19 communities as possible, including mountains, valleys, and
20 other natural areas.

21 (c) **SPECIAL CONSIDERATIONS.**—In delineating the
22 primitive areas, the Secretary shall exclude as many resi-
23 dential areas as possible. Along national or State des-
24 ignated trails, such as the Appalachian Trail, or natural
25 biological corridors, the Secretary shall extend the primi-

1 tive areas further in each direction from the core wilder-
2 ness area.

3 (d) ROADS.—The Secretary shall begin closing
4 unmapped roads, temporary roads, and unimproved cher-
5 ry-stemmed roads in a primitive area as soon as prac-
6 ticable after the primitive area has been delineated, unless
7 such roads provide access to private property.

8 **SEC. 9. DELINEATION OF PRIMITIVE AREAS ON WESTERN**
9 **NATIONAL FOREST SYSTEM LANDS.**

10 In the case of an Ecosystem Protection Areas located
11 west of the 104th meridian, the Secretary shall identify
12 every grazing allotment that is partially within a core wil-
13 derness area, and the portions of those allotments located
14 outside of the core wilderness area shall be the primitive
15 areas for that Ecosystem Protection Area.

16 **SEC. 10. COMPATIBLE MANAGEMENT OF ADJACENT DE-**
17 **PARTMENT OF THE INTERIOR LANDS.**

18 Federal lands administered by the Secretary of the
19 Interior that are adjacent to the Ecosystem Protection
20 Areas shall be managed in a manner compatible with the
21 management of the Ecosystem Protection Areas.

22 **SEC. 11. DEVELOPMENT OF STATE ECOSYSTEM PROTEC-**
23 **TION AREAS.**

24 (a) ASSISTANCE AUTHORIZED.—The Secretary shall
25 provide technical and financial assistance to enable the

1 States specified in subsection (b) to acquire Ecosystem
2 Protection Areas since these States are without a National
3 Forest or Grassland of 50,000 or more acres. A State Eco-
4 system Protection Area shall be based on one of the larg-
5 est State-owned Wilderness Areas, State Parks, State
6 Forests, or State Wildlife Management Areas in the State,
7 as described in subsection (b).

8 (b) STATE ECOSYSTEM PROTECTION AREAS.—The
9 State Ecosystem Protection Areas and the State-owned
10 lands forming their cores are as follows:

11 (1) Connecticut: Housatonic Highlands, includ-
12 ing Housatonic State Forest and Mt. Washington
13 State Forest (also in Massachusetts and New York).

14 (2) Delaware: Bay to Bay, including Redden
15 State Forest and Nanticoke Wildlife Area (also in
16 Maryland).

17 (3) Hawaii: Kau/South Kona, including Kau
18 Forest Reserve.

19 (4) Iowa: Fox River, including Stephens State
20 Forest and Shimek State Forest.

21 (5) Maryland: Maryland Mountains, including
22 Savage River State Forest.

23 (6) Massachusetts: Berkshire Hills, including
24 Mount Greylock State Reservation and Pittsfield
25 State Forest (also in New York).

1 (7) New Jersey: Waywayanda Highlands, in-
2 cluding Waywayanda State Park (also in New
3 York).

4 (8) New York: Bob Marshal Great Wilderness,
5 including Five Ponds Wilderness and Pigeon Lake
6 Wilderness.

7 (9) Rhode Island: Arcadia-Pachaug, including
8 Arcadia Wildlife Management Area and Pachaug
9 State Forest (also in Connecticut).

10 (c) ADMINISTRATION.—An Ecosystem Protection
11 Area acquired by a State using financial assistance pro-
12 vided under subsection (a) shall be administered by the
13 State pursuant to this Act and State law.

14 **SEC. 12. AVAILABILITY OF FOREST SERVICE FUNDS AND**
15 **COOPERATION WITH LAND TRUSTS.**

16 To carry out this Act, the Secretary may allocate
17 funds otherwise available for the Forest Service. The Sec-
18 retary may cooperate with land trusts and other private
19 parties dedicated to the preservation of open space to ac-
20 quire property authorized for purchase by this Act, includ-
21 ing base properties and mineral rights, and to retire graz-
22 ing permits.

23 **SEC. 13. REPORTING REQUIREMENTS.**

24 (a) INFORMATION ON ECOSYSTEM PROTECTION
25 AREAS.—As part of the annual report to Congress pre-

1 pared by the Secretary on the status of the National Wil-
2 derness Preservation System, the Secretary shall include
3 appropriate information concerning the Ecosystem Protec-
4 tion Areas and the administration of this Act.

5 (b) SPECIAL REQUIREMENTS FOR FIFTH REPORT.—

6 The annual report described in subsection (a) to be sub-
7 mitted to Congress in the fifth year after the date of the
8 enactment of this Act shall contain the following:

9 (1) An assessment and evaluation of all steps
10 taken during the four preceding years pursuant to
11 this Act.

12 (2) Recommendations regarding the designation
13 of additional or the expansion of existing Ecosystem
14 Management Areas.

15 (3) An evaluation of the effectiveness of the
16 procedures for creating grazing free areas and the
17 environmental advantages created in those areas.

18 (4) Recommendations regarding whether the
19 procedures evaluated under paragraph (3) should be
20 extended to all Forest Service wilderness areas.

21 **SEC. 14. AUTHORIZATION OF APPROPRIATIONS.**

22 (a) LAND ACQUISITION IN EASTERN UNITED
23 STATES.—There is authorized to be appropriated to the
24 Secretary for each of the fiscal years 2006 through 2019
25 through 2017 \$100,000,000 for the purchase of private

1 lands and other lands not owned by the United States lo-
2 cated in primitive areas delineated east of the 104th me-
3 ridian in the contiguous 48 States. Pending the delinea-
4 tion of primitive areas under section 8, the Secretary shall
5 purchase lands in areas that the Secretary anticipates in-
6 cluding in the Ecosystem Protection Areas.

7 (b) LAND ACQUISITION IN WESTERN WILDERNESS
8 AREAS.—There is authorized to be appropriated to the
9 Secretary for each of the fiscal years 2006 through 2019
10 \$5,000,000 for the purchase of private lands and other
11 lands not owned by the United States in the Wilderness
12 Areas located west of the 104th meridian in the contig-
13 uous 48 States.

14 (c) ELIMINATION OF GRAZING.—There is authorized
15 to be appropriated to the Secretary for each of the fiscal
16 years 2006 through 2019 \$2,000,000 for the purpose of
17 carrying out section 5.

18 (d) SUPPORT FOR STATES WITHOUT FEDERAL ECO-
19 SYSTEM PROTECTION AREAS.—There is authorized to be
20 appropriated to the Secretary for each of the fiscal years
21 2006 through 2019 \$33,000,000 to assist States in the
22 purchase of private lands in a State Ecosystem Protection
23 Area developed pursuant to section 11.

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