

# *Act to Save America's Forests of 2008 (H.R. 7090)*

**Sponsor: Representative Anna Eshoo (D-Ca)**

**110<sup>th</sup> Congress 2<sup>nd</sup> Session · September 25, 2008 · In the House of Representatives**

## **Section by Section Summary**

**A BILL** to strengthen the protection of native biodiversity and ban clearcutting on Federal land, to designate certain Federal land as Ancient forests, roadless areas, watershed protection areas, and special areas where logging and other intrusive activities are prohibited, to transfer administrative jurisdiction of Giant Sequoia National Monument to the National Park Service, to consider areas for inclusion in the National Park System, and for other purposes.

### **Title I – Land Management**

#### **Sec. 101. Committee of Scientists**

- Creates a committee of scientists to provide technical advice on issues surrounding forestry and native biodiversity for the next ten years.

#### **Sec. 102. Continuous Forest Inventory**

- Requires the Forest Service, the Fish and Wildlife Service, and the Bureau of Land Management to prepare ongoing inventories of their lands to monitor:
  - the biodiversity and health of ecosystems
  - changes in social and economic values
  - other modifications to native ecosystems

#### **Sec. 103. Administration and Management**

- Provides for conservation or restoration of native biodiversity in National Forests, Federal land, and National Wildlife Refuges.
- Establishes guidelines for the management of native biodiversity:
  - The Secretary shall provide for the conservation or restoration of native biodiversity in each stand and each watershed throughout each forested area
  - Clearcutting, high-grading, and other forms of even-age management are prohibited, except clearcutting is permitted to remove non-native invasive tree species or to remove invasive plantation species and restore native long-leaf pine ecosystems
  - On Federal Lands where even-aged management occurred previously, the governing institution must:

- Prescribe a shift to selection management to achieve a full range of native biodiversity or
  - Cease managing a stand for timber purposes, and actively or passively restore native biodiversity
- Enforcement
  - All citizens are harmed by violations of this section
  - The secretaries shall enforce against violations of these provisions
  - Any citizen may bring a civil action in US district court for a declaratory judgment, a temporary restraining order, an injunction, statutory damages, or other remedy against any alleged violator, including the United States
  - If a district court of the United States determines that a violation has occurred, the court shall
    - Shall impose a damage award of not less than \$5,000
    - May issue injunctions or other forms of equitable relief
    - Shall award to the plaintiff reasonable costs of bringing the action, including attorney’s fees, witness fees, and other necessary expenses
  - The standard of proof shall be the preponderance of evidence
  - A trial for any action under this subsection shall be de novo
  - A damage award by non-federal violators shall be paid to the Treasury
  - If the United States is the violator, the treasury shall pay the persons designated to receive the damage award, which should be used to protect or restore native biodiversity on Federal land or adjoining land
  - The United States waives its sovereign immunity under this subsection
  - No notice is required to enforce this subsection

**Sec. 104. Conforming Amendments**

- Makes conforming changes to Section 6(g)(3) of the *Forest and Rangeland Renewable Resource Planning Act of 1974* required to codify Title I.

**Title II – Protection for Ancient Forests, Roadless Areas, Watershed Protection Areas, and Special Areas**

**Sec. 201. Findings**

**Sec. 202. Definitions**

- Defines “Ancient Forest” as:
  1. In the Northwest Ancient Forests
    - Federal land identified by the term “medium and large conifer multi-storied, canopied forests” or identified as late-successional reserves, riparian reserves and key watersheds by the report “Final Supplemental Environmental Impact Statement on Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl, Vol. 1”, February 1994.
  2. In the eastside Cascade Ancient Forests
    - Federal land identified as “Late-Succession/Old-growth Forest” depicted in maps in a report prepared by the Eastside Forests Scientific Society Panel, 1994.

- Federal land east of the Cascade crest in the States of Oregon and Washington, defined as “late successional and old-growth forests” or classified as “Oregon Aquatic Diversity Areas,” as defined in the report mentioned above.
3. In the Sierra Nevada Ancient Forests:
- Federal land identified as “Areas of Late-Successional Emphasis,” “Late-Successional/Old-Growth Forests Rank 3, 4 or 5,” or “Potential Aquatic Diversity Management Areas” in the “Final Report to Congress: Status of the Sierra Nevada” 1996-1997.
- Defines “Roadless Area” as:
    - A continuous parcel of Federal Land
    - Devoid of improved roads
    - 1000 acres or larger or
    - Less than 1000 acres but shares a border that is not an improved road with a wilderness area, primitive area, or a wilderness study area
  - Defines "Special Area" as:
    - Land that may not meet the definition of an Ancient forest, roadless area, or watershed protection areas, but 1) possesses outstanding biological, scenic, recreational, or cultural values or 2) is exemplary on a regional, national, or international level.
  - Defines “Watershed Protection Area” as:
    - Federal land that extends
      - 300 feet from both sides of a stream or river
      - 100 feet from both sides of an active channel of an intermittent stream
      - 300 feet from a natural lake or pond
      - 150 feet from a constructed lake, pond or reservoir, or a natural or constructed wetland

**Sec. 203. Designation of Special Areas**

- Designates one or more Special Areas in national forests or other federal lands in the following states: Alabama, Alaska, Arizona, Arkansas, Colorado, Georgia, Idaho, Illinois, Michigan, Minnesota, Missouri, Montana, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Wisconsin, and Wyoming.
- Creates a committee of scientists for the two years following enactment to make recommendations to Congress for additional special areas.

**Sec. 204. Restrictions on Management Activities in Ancient Forests, Roadless Areas, Watershed Protection Areas, and Special Areas**

- Restricts Management Activities in Ancient Forests, Roadless Areas, Watershed Protection Areas, and Special Areas such that:
  - No roads shall be constructed or reconstructed
  - No extractive logging shall be permitted
  - No improvements for the purposes of extractive logging shall be permitted
  - (Non-native invasive tree species may be logged under limitations defined in Title I)

- Enforcement
  - All citizens are harmed by violations of this section
  - The secretaries shall enforce against violations of these provisions
  - Any citizen may bring a civil action in US district court for a declaratory judgment, a temporary restraining order, an injunction, statutory damages, or other remedy against any alleged violator, including the United States
  - If a district court of the United States determines that a violation has occurred, the court shall
    - Shall impose a damage award of not less than \$5,000
    - May issue injunctions or other forms of equitable relief
    - Shall award to the plaintiff reasonable costs of bringing the action, including attorney's fees, witness fees, and other necessary expenses
  - The standard of proof shall be the preponderance of evidence
  - A trial for any action under this subsection shall be de novo
  - A damage award by non-federal violators shall be paid to the Treasury
  - If the United States is the violator, the treasury shall pay the persons designated to receive the damage award, which should be used to protect or restore native biodiversity on Federal land or adjoining land
  - The United States waives its sovereign immunity under this subsection
  - No notice is required to enforce this subsection

## **Title III – Giant Sequoia National Monument**

### **Sec. 301. Findings**

### **Sec. 302. Definitions**

### **Sec. 303. Additions to Giant Sequoia National Monument**

- Adds to the Giant Sequoia National Monument the following lands: 1) 49,440 acres of land between the Western Divide and the Kern River and 2) the Jennie Lakes Wilderness.

### **Sec. 304. Transfer of Administrative Jurisdiction Over the Giant Sequoia National Monument.**

- Transfers the administration of the Monument from the Secretary of Agriculture to the Secretary of the Interior
- The Monument shall be administered in accordance with the presidential Proclamation that designated the Monument
- Monument headquarters shall be located at the existing National Park Service Facility at Three Rivers, California.
- Creates three visitor centers in the Giant Sequoia National Monument, located at Grant Grove Visitor Center in Kings Canyon National Park, Springville and Kernville.

### **Sec. 305. Giant Sequoia National Monument Advisory Board**

- Directs the Superintendent of Giant Sequoia National Monument to establish an advisory board to assist in the preparation of a management plan

### **Sec. 306. Transfer of Remainder of Sequoia National Forest to Sierra National Forest and Inyo National Forest**

- Since Section 304 transfers the Giant Sequoia National Monument to the jurisdiction of the National Park Service, the remaining Sequoia National Forest lands are transferred to other neighboring National Forests.
- The portion of Sequoia National Forest located north of Sequoia National Park that is not included in the Monument is added to Sierra National Forest.
- The portion of the Sequoia National Forest south of the Sequoia National Park that is not included in the Monument is added to Inyo National Forest.

**Sec. 307. Authorization of Appropriations**

- Authorizes such sums as are necessary to carry out this title

**Title IV – National Park System New Area Studies**

**Sec. 401. Findings**

**Sec. 402. Reconnaissance Surveys of Certain Areas for Inclusion Within National Park System**

- Directs the Secretary of the Interior to conduct reconnaissance surveys of areas classified as “Level III Ecoregions of the Continental United States” by the EPA and evaluate the suitability and feasibility of their inclusion in the National Park System and recommend whether or not to proceed to a special resource study.
- Lands to be considered for inclusion may include Federal land, land held by a State or local government, or private land which:
  - is not represented or is underrepresented ecologically in the National Park System or National Wilderness Preservation System
  - does not have adequate connectivity between existing National Parks or other protected areas
  - are near major population centers, thereby furthering the goal of providing access to the National Park System
  - possesses nationally significant natural or cultural resources
  - is a suitable and feasible addition to the National Park System
- Within three years after funds are first made available for the reconnaissance surveys, the Secretary shall report to Congress the results of the surveys and any special resource studies carried out in response to the Secretary’s recommendations.
- In each reconnaissance survey, the Secretary shall consider the following factors with regard to the area being studied:
  - the rarity and integrity of the resources;
  - the threats to those resources;
  - whether similar resources are already protected in the National Park System or in other public or private ownership;
  - the public use potential
  - the interpretive and educational potential;
  - costs associated with acquisition, development and operation;
  - the socioeconomic impacts of any designation;
  - the level of local and general public support
  - whether the area is of appropriate configuration to ensure long-term resource protection and visitor use.

- Authorizes such sums as are necessary to carry out this section.

**Sec. 403. Committee of Scientists**

- In conducting the reconnaissance surveys required by Section 402, the Secretary of the Interior will appoint and consult with a committee of scientists to provide technical and scientific advice on the reconnaissance surveys and an assessment of each of the Level III Ecoregions. An assessment of each Ecoregion is due one year from the enactment of this Act and overall findings, conclusions, and recommendations are due 3 years from the enactment of this Act.

**Title V – Effective Date and Miscellaneous Provisions**

**Sec. 501. Effective Date**

- This Act takes effect on the date of the enactment of this Act.

**Sec. 502. Effect on Existing Contracts**

- This Act does not apply to any contract for the sale of timber that was entered into on or before the date of enactment of this Act.

**Sec. 503. Wilderness Act Exclusion**

- This Act and the amendments made by this Act shall not apply to any Federal wilderness area designated under the Wilderness Act.

**Sec. 504. Effect of Conflict with Endangered Species Act of 1973**

- In the event of any conflict between a provision of this Act, or an amendment made by this Act, and the Endangered Species Act of 1973, the Endangered Species Act of 1973 shall prevail.