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**21. WATERSHED RESTORATION AND LAND  
MANAGEMENT**

[As Amended through the end of the First Session of the 108th  
Congress (Public Law 108-198, Dec. 31, 2003)]

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December 31, 2003

## **A. Watershed Restoration and Enhancement Agreements**

Section 323 of the Department of the Interior and Related Agencies Appropriations Act, 1999 (as contained in section 101(e) of division A of Public Law 105-277)

**SEC. 323. [16 U.S.C. 1011 note]** (a) **WATERSHED RESTORATION AND ENHANCEMENT AGREEMENTS.**—For fiscal year 1999, 2000 and 2001, and fiscal years 2002 through 2005, to the extent funds are otherwise available, appropriations for the Forest Service may be used by the Secretary of Agriculture for the purpose of entering into cooperative agreements with willing Federal, tribal, State and local governments, private and nonprofit entities and landowners for the protection, restoration and enhancement of fish and wildlife habitat, and other resources on public or private land, the reduction of risk from natural disaster where public safety is threatened, or a combination thereof or both that benefit these resources within the watershed.

(b) **DIRECT AND INDIRECT WATERSHED AGREEMENTS.**—The Secretary of Agriculture may enter into a watershed restoration and enhancement agreement—

- (1) directly with a willing private landowner; or
- (2) indirectly through an agreement with a State, local or tribal government or other public entity, educational institution, or private nonprofit organization.

(c) **TERMS AND CONDITIONS.**—In order for the Secretary to enter into a watershed restoration and enhancement agreement—

- (1) the agreement shall—
  - (A) include such terms and conditions mutually agreed to by the Secretary and the landowner, state or local government, or private or nonprofit entity;
  - (B) improve the viability of and otherwise benefit the fish, wildlife, and other resources on national forests lands within the watershed;
  - (C) authorize the provision of technical assistance by the Secretary in the planning of management activities that will further the purposes of the agreement;
  - (D) provide for the sharing of costs of implementing the agreement among the Federal Government, the landowner(s), and other entities, as mutually agreed on by the affected interests; and
  - (E) ensure that any expenditure by the Secretary pursuant to the agreement is determined by the Secretary to be in the public interest; and
- (2) the Secretary may require such other terms and conditions as are necessary to protect the public investment on non-Federal lands, provided such terms and conditions are mutually agreed to by the Secretary and other landowners, State and local governments or both.

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(d) REPORTING REQUIREMENTS.—Not later than December 31, 1999, the Secretary shall submit a report to the Committees on Appropriations of the House and Senate, which contains—

(1) A concise description of each project, including the project purpose, location on federal and non-federal land, key activities, and all parties to the agreement.

(2) the funding and/or other contributions provided by each party for each project agreement.

## B. Stewardship End Result Contracting Projects

Section 347 of the Department of the Interior and Related Agencies Appropriations Act, 1999 (as contained in section 101(e) of division A of Public Law 105-277)

### STEWARDSHIP END RESULT CONTRACTING PROJECTS

SEC. 347.<sup>1</sup> [16 U.S.C. 2104 note] (a) IN GENERAL.—Until September 30, 2013, the Forest Service and the Bureau of Land Management, via agreement or contract as appropriate, may enter into stewardship contracting projects with private persons or other public or private entities to perform services to achieve land management goals for the national forests and the public lands that meet local and rural community needs.

(b) LAND MANAGEMENT GOALS.—The land management goals of a project under subsection (a) may include, among other things—

(1) road and trail maintenance or obliteration to restore or maintain water quality;

(2) soil productivity, habitat for wildlife and fisheries, or other resource values;

(3) setting of prescribed fires to improve the composition, structure, condition, and health of stands or to improve wildlife habitat;

(4) removing vegetation or other activities to promote healthy forest stands, reduce fire hazards, or achieve other land management objectives;

(5) watershed restoration and maintenance;

(6) restoration and maintenance of wildlife and fish habitat; and

(7) control of noxious and exotic weeds and reestablishing native plant species.

(c) AGREEMENTS OR CONTRACTS.—

(1) PROCUREMENT PROCEDURE.—A source for performance of an agreement or contract under subsection (a) shall be selected on a best-value basis, including consideration of source under other public and private agreements or contracts.

(2) TERM.—A multiyear contract may be entered into under subsection (a) in accordance with section 304B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254c), except that the period of the contract may exceed 5 years but may not exceed 10 years.

(3) OFFSETS.—

<sup>1</sup> Section 338 of the Department of the Interior and Related Agencies Appropriations Act, 2001 (Public Law 106-291; 114 Stat. 998; 16 U.S.C. 2104 note), provides as follows:

SEC. 338. The authority to enter into stewardship and end result contracts provided to the Forest Service in accordance with section 347 of title III of section 101(e) of division A of Public Law 105-825 is hereby expanded to authorize the Forest Service to enter into an additional 28 contracts subject to the same terms and conditions as provided in that section: *Provided*, That of the additional contracts authorized by this section at least 9 shall be allocated to Region 1 and at least 3 to Region 6.

(A) IN GENERAL.—In connection with agreement or contracts under subsection (a), the Forest Service and the Bureau of Land Management may apply the value of timber or other forest products removed as an offset against the cost of services received.

(B) METHODS OF APPRAISAL.—The value of timber or other forest products used as offsets under subparagraph (A)—

(i) shall be determined using appropriate methods of appraisal commensurate with the quantity of products to be removed;

(ii) may be determined using a unit of measure appropriate to the agreement or contracts; and

(iii) may include valuing products on a per-acre basis.

(4) RELATION TO OTHER LAWS.—The Forest Service may enter into agreement or contracts under subsection (a), notwithstanding subsections (d) and (g) of section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a).

(5) CONTRACTING OFFICER.—Notwithstanding any other provision of law, the Secretary of Agriculture or the Secretary of the Interior may determine the appropriate contracting officer to enter into and administer an agreement or contract under subsection (a).

(d) RECEIPTS.—

(1) IN GENERAL.—The Forest Service and the Bureau of Land Management may collect monies from an agreement or contract under subsection (a) so long as such collection is a secondary objective of negotiating contracts that will best achieve the purposes of this section.

(2) USE.—Monies from an agreement or contract under subsection (a) may be retained by the Forest Service and the Bureau of Land Management and shall be available for expenditure without further appropriation at the project site from which the monies are collected or at another project site.

(3) RELATION TO OTHER LAWS.—The value of services received by the Forest Service or the Bureau of Land Management under a stewardship contract project conducted under this section, and any payments made or resources provided by the contractor or the Forest Service or the Bureau of Land Management under such a project, shall not be considered to be monies received from the National Forest System or the public lands under any provision of law. The Act of June 9, 1930 (16 U.S.C. 576 et seq.; commonly known as the Knutson-Vandenberg Act), shall not apply to stewardship contracts entered into under this section.

(e) COSTS OF REMOVAL.—The Forest Service may collect deposits from contractors covering the costs of removal of timber or other forest products pursuant to the Act of August 11, 1916 (39 Stat. 462, chapter 313; 16 U.S.C. 490); and the next to the last paragraph under the heading “Forest Service.” under the heading “Department of Agriculture” in the Act of June 30, 1914 (38 Stat. 430, chapter 131; 16 U.S.C. 498); notwithstanding the fact that the timber purchasers did not harvest the timber.

(f) PERFORMANCE AND PAYMENT GUARANTEES.—

(1) IN GENERAL.—The Forest Service and the Bureau of Land Management may require performance and payment bonds, in accordance with sections 103-2 and 103-2 of part 28 of the Federal Acquisition Regulation (48 C.F.R. 28.103-2, 28.103-3), in an amount that the contracting officer considers sufficient to protect the Government's investment in receipts generated by the contractor from the estimated value of the forest products to be removed under contract under subsection (a).

(2) EXCESS OFFSET VALUE.—If the offset value of the forest products exceeds the value of the resource improvement treatments, the Forest Service and the Bureau of Land Management may—

(A) collect any residual receipts pursuant to the Act of June 9, 1930 (46 Stat. 527, chapter 416; 16 U.S.C. 576b); and

(B) apply the excess to other authorized stewardship projects.

(g) MONITORING, EVALUATION AND REPORTING.—The Forest Service and the Bureau of Land Management shall establish a multiparty monitoring and evaluation process that accesses the stewardship contracting projects project conducted under this section. Besides the Forest Service and the Bureau of Land Management, participants in this process may include any cooperating governmental agencies, including tribal governments, and any interested groups or individuals. The Forest Service and the Bureau of Land Management shall report annually to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate on—

(1) the status of development, execution, and administration of agreements or contracts under subsection (a);

(2) the specific accomplishments that have resulted; and

(3) the role of local communities in development of agreements or contract plans.

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