

105th CONGRESS  
1ST SESSION

# H.R. 2107

## CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2107) “making appropriations for the Department of the Interior and Related Agencies, for the fiscal year ending September 30, 1998, and for other purposes,” having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 4, 6, 7, 13, 28, 30, 35, 40, 54, 61, 91, 95, 106, 131.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 5, 10, 16, 18, 20, 25, 31, 33, 38, 39, 41, 44, 45, 46, 47, 48, 49, 52, 53, 56, 58, 59, 60, 62, 63, 64, 66, 71, 72, 73, 75, 76, 79, 85, 86, 92, 94, 100, 107, 112, 113, 116, 117, 119, 120, 122, 123, 125, 126, 127, 133, 135, 139, 140, 141, 145, 147, 148, 149, 154, 155, 159, 160, and 161; and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *\$583,270,000*; and the Senate agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *\$583,270,000*; and the Senate agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *\$120,000,000*; and the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *\$11,200,000*; and the Senate agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: \$594,842,000; and the Senate agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *, and of which not to exceed \$5,190,000 shall be used for implementing subsections (a), (b), (c), and (e) of section 4 of the Endangered Species Act of 1973, as amended: Provided, That the proviso under this heading in Public Law 104–208 is amended by striking the words “Education and” and inserting in lieu thereof “Conservation”, by striking the word “direct” and inserting in lieu thereof the word “full”, and by inserting before the period “, to remain available until expended”;* and the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *\$45,006,000*; and the Senate agree to the same.

Amendment numbered 15:

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *\$4,228,000*; and the Senate agree to the same.

Amendment numbered 17:

That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *\$62,632,000*; and the Senate agree to the same.

Amendment numbered 19:

That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *\$11,700,000*; and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *\$1,233,664,000*; and the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *\$44,259,000, of which \$4,500,000 is for grants to Heritage areas in accordance with section 606 of title VI, division I and titles I–VI and VIII–IX, division II of Public Law 104–333 and is*; and the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *\$40,812,000*; and the Senate agree to the same.

Amendment numbered 24:

That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment as follows:

In lieu of the sum named in said amendment insert: *\$4,200,000*; and the Senate agree to the same.

Amendment numbered 26:

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: \$214,901,000; and the Senate agree to the same.

Amendment numbered 27:

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted in said amendment, insert: : *Provided, That \$500,000 for the Rutherford B. Hayes Home; \$600,000 for the Sotterly Plantation House; \$500,000 for the Darwin Martin House in Buffalo, New York; \$500,000 for the Penn Center, South Carolina; and \$1,000,000 for the Vietnam Veterans Museum in Chicago, Illinois shall be derived from the Historic Preservation Fund pursuant to 16 U.S.C. 470a: Provided further, That \$3,000,000 for the Hispanic Cultural Center, New Mexico, is subject to authorization: Provided further, That none of the funds provided in this Act may be used to relocate the Brooks River Lodge in Katmai National Park and Preserve from its current physical location;* and the Senate agree to the same.

Amendment numbered 29:

That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *\$143,290,000*; and the Senate agree to the same.

Amendment numbered 32:

That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *\$759,160,000*; and the Senate agree to the same.

Amendment numbered 34:

That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *\$145,159,000*; and the Senate agree to the same.

Amendment numbered 36:

That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *\$137,521,000*; and the Senate agree to the same.

Amendment numbered 37:

That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *\$68,574,000*; and the Senate agree to the same.

Amendment numbered 42:

That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *\$1,528,588,000*; and the Senate agree to the same.

Amendment numbered 43:

That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *\$55,949,000*; and the Senate agree to the same.

Amendment numbered 50:

That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *\$67,514,000*; and the Senate agree to the same.

Amendment numbered 51:



That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: \$63,665,000; and the Senate agree to the same.

Amendment numbered 55:

That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: \$33,907,000; and the Senate agree to the same.

Amendment numbered 57:

That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

*SEC. 107. In fiscal year 1998 and thereafter, for those years in which the recreation fee demonstration program authorized in Public Law 104-134 is in effect, the fee collection support authority provided in 16 U.S.C. 460l-6(i)(1)(B) applies only to parks not included in the fee demonstration program, and that the amount retained under this authority to cover fee collection costs will not exceed those costs at the non-demonstration parks, or 15*

*percent of all fees collected at non-demonstration parks in a fiscal year whichever is less. Fee collection costs for parks included in the fee demonstration program will be covered by the fees retained at those parks.*

And the Senate agree to the same.

Amendment numbered 65:

That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended to read as follows:

*SEC. 118. Any funds made available in this Act or any other Act for tribal priority allocations (hereafter in this section "TPA") in excess of the funds expended for TPA in fiscal year 1997 (adjusted for fixed costs, internal transfers pursuant to other law, and proposed increases to formula driven programs not included in tribes' TPA base) shall only be available for distribution—*

*(1) to each tribe to the extent necessary to provide that tribe the minimum level of funding recommended by the Joint-Tribal/BIA/DOI Task Force on Reorganization of the Bureau of Indian Affairs Report of 1994 (hereafter "the 1994 Report") not to exceed \$160,000 per tribe; and*

*(2) to the extent funds remain, such funds will be allocated according to the recommendations of a task force comprised of 2 designated Federal officials and 2 tribal representatives from each BIA area. These representatives shall be selected by the Secretary after considering a list of names of tribal leaders nominated and elected by the tribes in each area. The list of nominees shall be provided to the Secretary by October 31, 1997. If the tribes in an area fail to submit a list of nominees to the Secretary by October 31, 1997, the Secretary shall select representatives after consulting with the BIA. In determining the allocation of remaining funds, the Task Force shall consider the recommendations and principles contained in the 1994 Report. If the Task Force cannot agree on a distribution by January 31, 1998, the Secretary shall distribute the remaining funds based on the recommendations of a majority of Task Force members no later than February 28, 1998. If a majority recommendation cannot be reached, the Secretary in exercising his discretion shall distribute the remaining funds considering the recommendations of the Task Force members.*

And the Senate agree to the same.

Amendment numbered 67:

That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

*SEC. 120. Notwithstanding any other provision of law, 90 days after enactment of this section there is hereby vested in the United States all right, title and interest in and to, and the right of immediate possession of, all patented mining claims and valid unpatented mining claims (including any unpatented claim whose validity is in dispute, so long as such validity is later established in accordance with applicable agency procedures) in the area known as the Kantishna Mining District within Denali National Park and Preserve, for which all current owners (or the bankruptcy trustee as provided hereafter) of each such claim (for unpatented claims, ownership as identified in recordations under the mining laws and regulations) consent to such vesting in writing to the Secretary of the Interior within said 90-day period: Provided, That in the case of a mining claim in the Kantishna Mining District that is involved in a bankruptcy proceeding, where the bankruptcy trustee is a holder of an interest in such mining claim, such consent may only be provided and will be deemed timely for purposes of this section if the trustee ap-*

*plies within said 90-day period to the bankruptcy court or any other appropriate court for authority to sell the entire mining claim and to consent to the vesting of title to such claim in the United States pursuant to this section, and that in such event title in the entire mining claim shall vest in the United States 10 days after entry of an unstayed, final order or judgment approving the trustee's application: Provided further, That the United States shall pay just compensation to the aforesaid owners of any valid claims to which title has vested in the United States pursuant to this section, determined as of the date of taking: Provided further, That payment shall be in the amount of a negotiated settlement of the value of such claim or the valuation of such claim awarded by judgment, and such payment, including any deposits in the registry of the court, shall be made solely from the permanent judgment appropriation established pursuant to section 1304 of title 31, United States Code, and shall include accrued interest on the amount of the agreed settlement value or the final judgment from the date of taking to the date of payment, calculated in accordance with section 258a, title 40, United States Code: Provided further, That the United States or a claim owner or bankruptcy trustee may initiate proceedings after said 90-day period, but no later than six years after the date of enactment of this section, seeking a*

*determination of just compensation in the District Court for the District of Alaska pursuant to the Declaration of Taking Act, sections 258a–e of title 40, United States Code (except where inconsistent with this section), and joining all owners of the claim: Provided further, That when any such suit is instituted by the United States or the owner or bankruptcy trustee, the United States shall deposit as soon as possible in the registry of the court the estimated just compensation, in accordance with the procedures generally described in section 258a of title 40, United States Code, not otherwise inconsistent with this section: Provided further, That in establishing any estimate for deposit in the court registry (other than an estimate based on an agency approved appraisal made prior to the date of enactment of this Act) the Secretary of the Interior shall permit the claim owner to present information to the Secretary on the value of the claim, including potential mineral value, and the Secretary shall consider such information and permit the claim owner to have a reasonable and sufficient opportunity to comment on such estimate: Provided further, That the estimated just compensation deposited in the court registry shall be paid forthwith to the aforesaid owners upon application to the court: Provided further, That any payment from the court registry to the aforesaid owners shall be deducted from any negotiated set-*

*tlement or award by judgment: Provided further, That the United States may not request the court to withhold any payment from the court registry for environmental remediation with respect to such claim: Provided further, That the Secretary shall not allow any unauthorized use of claims acquired pursuant to this section after the date title vests in the United States pursuant to this section, and the Secretary shall permit the orderly termination of all operations on the lands and the removal of equipment, facilities, and personal property by claim owners or bankruptcy trustee (as appropriate).*

And the Senate agree to the same.

Amendment numbered 68:

That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment, as follows:

Retain the matter proposed in said amendment, amended as follows:

Before the period at the end of the amendment, insert: *and by inserting at the end of the section the following new sentence: "If such litigation is commenced, at the court trial, any party may introduce any relevant evidence bearing on the interpretation of the 1976 agreement."*

And the Senate agree to the same.

Amendment numbered 69:

That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

*SEC. 122. (a) KODIAK LAND VALUATION.—Notwithstanding the Refuge Revenue Sharing Act (16 U.S.C. 715s) or any regulations implementing such Act, the fair market value for the initial computation of the payment to Kodiak Island Borough pursuant to such Act shall be based on the purchase price of the parcels acquired from Akhiok-Kaguyak, Incorporated, Koniag, Incorporated, and the Old Harbor Native Corporation for addition to the Kodiak National Wildlife Refuge.*

*(b) The fair market value of the parcels described in subsection (a) shall be reappraised by the Alaska Region of the United States Fish and Wildlife Service under the Refuge Revenue Sharing Act (16 U.S.C. 715s). Any such reappraisals shall be made in accordance with such Act and any other applicable law and regulation, and shall be effective for any payments made in fiscal year 1999.*

*(c) The fair market value computation required under subsection (a) shall be effective as of the date of the acquisition of the parcels described in such subsection.*



And the Senate agree to the same.

Amendment numbered 70:

That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

*SEC. 123. ASSESSMENT OF FEES.—*

*(a) COMMISSION FUNDING.—Section 18(a) of the Indian Gaming Regulatory Act (25 U.S.C. 2717 (a)) is amended—*

*(1) in paragraph (1), by striking “class II gaming activity” and inserting “gaming operation that conducts a class II or class III gaming activity”; and*

*(2) in paragraph (2)—*

*(A) in subparagraph (A)(i), by striking “no less than 0.5 percent nor” and inserting “no”; and*

*(B) in subparagraph (B), by striking “\$1,500,000” and inserting “\$8,000,000”.*

*(C) nothing in subsection (a) of this section shall apply to self-regulated tribes such as the Mississippi Band of Choctaw.*

*(b) AUTHORIZATION OF APPROPRIATIONS.—Section 19 of the Indian Gaming Regulatory Act (25 U.S.C. 2718) is amended—*

(1) *in subsection (a), by striking “such sums as may be necessary” and inserting “for fiscal year 1998, and for each fiscal year thereafter, an amount equal to the amount of funds derived from the assessments authorized by section 18(a) for the fiscal year immediately preceding the fiscal year involved,”; and*

(2) *by striking subsection (b) and inserting the following:*

*“(b) Notwithstanding section 18, there are authorized to be appropriated to fund the operation of the Commission, \$2,000,000 for fiscal year 1998, and \$2,000,000 for each fiscal year thereafter. The amounts authorized to be appropriated in the preceding sentence shall be in addition to the amounts authorized to be appropriated under subsection (a).”.*

And the Senate agree to the same.

Amendment numbered 74:

That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

*SEC. 27. For the sole purpose of accessing park or other authorized visitor services or facilities at, or originating from, the public dock area at Bartlett Cove, the Na-*

*tional Park Service shall initiate a competitive process by which the National Park Service shall allow one-entry per day for a passenger ferry into Bartlett Cove from Juneau: Provided, That any passenger ferry allowed entry pursuant to this Act shall be subject to speed, distance from coast lines, and other limitations imposed necessary to protect park resources: Provided further, That nothing in this Act shall be construed as constituting approval for entry into the waters of Glacier Bay National Park and Preserve beyond the immediate Bartlett Cove area as defined by a line extending northeastward from Pt. Carolus to the west to the southernmost point of Lester Island, absent required permits.*

And the Senate agree to the same.

Amendment numbered 77:

That the House recede from its disagreement to the amendment of the Senate numbered 77, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

*SEC. 31. No funds provided in this or any other Act may be expended for the promulgation of a proposed or final rule to amend or replace the National Indian Gaming Commission's definition regulations located at 25 CFR 502.7 and 502.8.*

And the Senate agree to the same.

Amendment numbered 78:

That the House recede from its disagreement to the amendment of the Senate numbered 78, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

*SEC. 32. Notwithstanding any other provision of law, hereafter the United States Fish and Wildlife Service may disburse to local entities impact funding pursuant to Refuge Revenue Sharing that is associated with Federal real property transferred to the United States Geological Survey from the United States Fish and Wildlife Service.*

And the Senate agree to the same.

Amendment numbered 80:

That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

*SEC. 134. CONVEYANCE OF CERTAIN BUREAU OF LAND MANAGEMENT LANDS IN CLARK COUNTY, NEVADA.—*

*(a) FINDINGS.—Congress finds that—*

*(1) certain landowners who own property adjacent to land managed by the Bureau of Land Management in the North Decatur Boulevard area of Las Vegas, Nevada, bordering on North Las Vegas, have been adversely affected by certain erroneous private land surveys that the landowners believed were accurate;*

*(2) the landowners have occupied or improved their property in good faith reliance on the erroneous surveys of the properties;*

*(3) the landowners believed that their entitlement to occupancy was finally adjudicated by a Judgment and Decree entered by the Eighth Judicial District Court of Nevada on October 26, 1989;*

*(4) errors in the private surveys were discovered in connection with a dependent resurvey and section subdivision conducted by the Bureau of Land Management in 1990, which established accurate boundaries between certain federally owned properties and private properties; and*

*(5) the Secretary has authority to sell, and it is appropriate that the Secretary should sell, based on an appraisal of the fair market value as of December 1, 1982, the properties described in section 2(b) to the adversely affected landowners.*

*(b) CONVEYANCE OF PROPERTIES.—**(1) PURCHASE OFFERS.—*

*(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the city of Las Vegas, Nevada, on behalf of the owners of real property located adjacent to the properties described in paragraph (2), may submit to the Secretary of the Interior, acting through the Director of the Bureau of Land Management (referred to in this Act as the “Secretary”), a written offer to purchase the properties.*

*(B) INFORMATION TO ACCOMPANY OFFER.—*

*An offer under subparagraph (A) shall be accompanied by—*

*(i) a description of each property offered to be purchased;*

*(ii) information relating to the claims of ownership of the property based on an erroneous land survey; and*

*(iii) such other information as the Secretary may require.*

*(2) DESCRIPTION OF PROPERTIES.—The properties described in this paragraph, containing 37.36 acres, more or less, are—*

(A) *Government lots 22, 23, 26, and 27 in sec. 18, T. 19 S., R. 61 E., Mount Diablo Meridian;*

(B) *Government lots 20, 21, and 24 in sec. 19, T. 19 S., R. 61 E., Mount Diablo Meridian; and*

(C) *Those lands encroached upon in Government lot 1 in sec. 24, T. 19 S., R. 60 E., Mount Diablo Meridian, containing approximately 8 acres.*

(3) *CONVEYANCE.—*

(A) *IN GENERAL.—Subject to the condition stated in subparagraph (B), the Secretary shall convey subject to valid existing rights to the city of Las Vegas, Nevada, all right, title, and interest of the United States in and to the properties offered to be purchased under paragraph (1) on payment by the city of the fair market value of the properties, based on an appraisal of the fair market value as of December 1, 1982, approved by the Secretary.*

(B) *CONDITION.—Properties shall be conveyed under subparagraph (A) subject to the condition that the city convey the properties to the landowners who were adversely affected by reli-*

*ance on erroneous surveys as described in subsection (a).*

And the Senate agree to the same.

Amendment numbered 81:

That the House recede from its disagreement to the amendment of the Senate numbered 81, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

*SEC. 135. (a) Notwithstanding any other provision of law, the Secretary of the Interior is directed to accept full title to approximately 84 acres of land located in Prince Georges County, Maryland, adjacent to Oxon Cove Park, and bordered generally by the Potomac River, Interstate 295 and the Woodrow Wilson Bridge, and in exchange therefor shall convey to the Corrections Corporation of America all of the interest of the United States in approximately 42 acres of land located in Oxon Cove Park in the District of Columbia, and bordered generally by Oxon Cove, Interstate 295 and the District of Columbia Impound Lot.*

*(b) The Secretary shall not acquire any lands under this section if the Secretary determines that the lands or any portion thereof have become contaminated with hazardous substances (as defined in the Comprehensive Envi-*



*ronmental Response, Compensation, and Liability Act (42 U.S.C. 9601)).*

*(c) Notwithstanding any other provision of law, the United States shall have no responsibility or liability with respect to any hazardous wastes or other substances placed on any of the lands covered by this section after their transfer to any party, but nothing in this section shall be construed as either diminishing or increasing any responsibility or liability of the United States based on the condition of such lands on the date of their transfer to the ownership of another party: Provided, that the Corrections Corporation of America shall indemnify the United States for liabilities arising under the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601) and the Resource Conservation Recovery Act (42 U.S.C. 9601, et seq.).*

*(d) The properties so exchanged shall be equal in fair market value or if they are not approximately equal, the Corrections Corporation of America shall equalize the values by the payment of cash to the Secretary and any such payments shall be deposited to credit of "Miscellaneous Trust Funds, National Park Service" and shall be available without further appropriation until expended for the acquisition of land within the National Park System. No equalization shall be required if the value of the property*

*received by the Secretary is more than that transferred by the Secretary.*

*(e) Costs of conducting necessary land surveys, preparing the legal descriptions of the lands to be conveyed, appraisals, deeds, other necessary documents, and administrative costs shall be borne by the Corporation. The required appraisals shall be conducted in accordance with 43 CFR 2201.3-1, 2201.3-3, and 2201.3-4.*

*(f) Following any exchange authorized by this provision, the boundaries of the Park System of the Nation's Capital are hereby amended to reflect the property added to and deleted from that System.*

And the Senate agree to the same.

Amendment numbered 82:

That the House recede from its disagreement to the amendment of the Senate numbered 82, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

*SEC. 136. The National Park Service shall, within 30 days of enactment of this Act, begin negotiations with the University of Alaska Fairbanks, School of Mineral Engineering, to determine the compensation that shall be paid by the National Park Service, within funds appropriated to the National Park Service in this Act, or within unobli-*

*gated balances of funds appropriated in prior Appropriations Acts, to the University of Alaska Fairbanks, School of Mineral Engineering, for facilities, equipment, and interests owned by the University that were destroyed by the Federal Government at the Stampede Mine Site within the boundaries of Denali National Park and Preserve: Provided, That if the National Park Service and the University of Alaska Fairbanks, School of Mineral Engineering, fail to reach a negotiated settlement within 90 days of commencing negotiations, then the National Park Service shall submit a formal request to the Director of the Office of Hearings and Appeals, Department of the Interior, for the purpose of entering into third-party mediation to be conducted in accordance with the Department of the Interior's final policy applicable to alternative dispute resolution: Provided further, That any payment made by the National Park Service to the University of Alaska Fairbanks, School of Mineral Engineering, shall fully satisfy the claims of the University of Alaska Fairbanks, School of Mineral Engineering; and that the University of Alaska Fairbanks, School of Mineral Engineering, shall convey to the Secretary of the Interior all property rights in such facilities, equipment and interests: Provided further, That the Secretary of the Army shall provide, at no cost, two six by six vehicles, in excellent operating condition, or*

*equivalent equipment to the University of Alaska Fairbanks, School of Mineral Engineering, and shall construct a bridge across the Bull River to the Golden Zone Mine Site to allow ingress and egress for the activities conducted by the School of Mineral Engineering.*

And the Senate agree to the same.

Amendment numbered 83:

That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *\$187,944,000*; and the Senate agree to the same.

Amendment numbered 84:

That the House recede from its disagreement to the amendment of the Senate numbered 84, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *\$161,237,000*; and the Senate agree to the same.

Amendment numbered 87:

That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *\$1,348,377,000*; and the Senate agree to the same.

Amendment numbered 88:

That the House recede from its disagreement to the amendment of the Senate numbered 88, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended as follows: after the words “design costs” in said amendment insert: : *Provided further, That any such project must be approved by the House and Senate Committees on Appropriations in compliance with the re-programming procedures contained in House Report 105–163*; and the Senate agree to the same.

Amendment numbered 89:

That the House recede from its disagreement to the amendment of the Senate numbered 89, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *\$584,707,000*; and the Senate agree to the same.

Amendment numbered 90:

That the House recede from its disagreement to the amendment of the Senate numbered 90, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment insert: *\$166,045,000*; and the Senate agree to the same.

Amendment numbered 93:

That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: \$52,976,000; and the Senate agree to the same.

Amendment numbered 96:

That the House recede from its disagreement to the amendment of the Senate numbered 96, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: \$2,250,000; and the Senate agree to the same.

Amendment numbered 97:

That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: \$750,000; and the Senate agree to the same.

Amendment numbered 98:

That the House recede from its disagreement to the amendment of the Senate numbered 98, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

*No funds appropriated under this or any other Act for the purpose of operations conducted at the Forest Serv-*

*ice Region 10 headquarters, including those funds identified for centralized field costs for employees of this office, shall be obligated or expended in excess of \$17,500,000 from the total funds appropriated for Region 10, without 60 days prior notice to Congress. Funds appropriated by this Act to implement the Revised Tongass National Forest Land Management Plan, shall be spent and obligated at the Forest Supervisor and Ranger District levels, with the exception of specific management and oversight expenses, provided such expenses are included in the funding ceiling of \$17,500,000.*

And the Senate agree to the same.

Amendment numbered 99:

That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: \$362,403,000; and the Senate agree to the same.

Amendment numbered 101:

That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: \$611,723,000; and the Senate agree to the same.

Amendment numbered 102:

That the House recede from its disagreement to the amendment of the Senate numbered 102, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *\$155,095,000*; and the Senate agree to the same.

Amendment numbered 103:

That the House recede from its disagreement to the amendment of the Senate numbered 103 and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *\$124,845,000*; and the Senate agree to the same.

Amendment numbered 104:

That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *\$30,250,000*; and the Senate agree to the same.

Amendment numbered 105:

That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:



*STRATEGIC PETROLEUM RESERVE*  
*(INCLUDING TRANSFER OF FUNDS)*

*For necessary expenses for Strategic Petroleum Reserve facility development and operations and program management activities pursuant to Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et seq.), \$207,500,000, to remain available until expended, of which \$207,500,000 shall be repaid from the “SPR Operating Fund” from amounts made available from the sale of oil from the Reserve: Provided, That notwithstanding section 161 of the Energy Policy and Conservation Act, the Secretary shall draw down and sell in fiscal year 1998 \$207,500,000 worth of oil from the Strategic Petroleum Reserve: Provided further, That the proceeds from the sale shall be deposited into the “SPR Operating Fund”, and shall, upon receipt, be transferred to the Strategic Petroleum Reserve account for operations of the Strategic Petroleum Reserve.*

And the Senate agree to the same.

Amendment numbered 108:

That the House recede from its disagreement to the amendment of the Senate numbered 108, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *\$1,841,074,000*; and the Senate agree to the same.

Amendment numbered 109:

That the House recede from its disagreement to the amendment of the Senate numbered 109, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *\$361,375,000*; and the Senate agree to the same.

Amendment numbered 110:

That the House recede from its disagreement to the amendment of the Senate numbered 110, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert: : *Provided further, That not to exceed \$168,702,000 shall be for payments to tribes and tribal organizations for contract support costs associated with ongoing contracts or grants or compacts entered into with the Indian Health Service prior to fiscal year 1998, as authorized by the Indian Self-Determination Act of 1975, as amended*; and the Senate agree to the same.

Amendment numbered 111:

That the House recede from its disagreement to the amendment of the Senate numbered 111, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named in the matter restored insert: *\$257,538,000*; and the Senate agree to the same.

Amendment numbered 114:

That the House recede from its disagreement to the amendment of the Senate numbered 114, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *\$4,250,000*; and the Senate agree to the same.

Amendment numbered 115:

That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *\$333,408,000*; and the Senate agree to the same.

Amendment numbered 118:

That the House recede from its disagreement to the amendment of the Senate numbered 118, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *\$6,192,000*; and the Senate agree to the same.

Amendment numbered 121:

That the House recede from its disagreement to the amendment of the Senate numbered 121, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert: *\$81,240,000*; and the Senate agree to the same.

Amendment numbered 124:

That the House recede from its disagreement to the amendment of the Senate numbered 124, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: \$23,280,000; and the Senate agree to the same.

Amendment numbered 128:

That the House recede from its disagreement to the amendment of the Senate numbered 128, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

*SEC. 316. SUBSISTENCE HUNTING AND FISHING IN ALASKA.—*

*(a) MORATORIUM ON FEDERAL MANAGEMENT.—None of the funds made available to the Department of the Interior or the Department of Agriculture by this or any other Act hereafter enacted may be used prior to December 1, 1998 to issue or implement final regulations, rules, or policies pursuant to title VIII of the Alaska National Interest Lands Conservation Act to assert jurisdiction, management, or control over the navigable waters transferred to the State of Alaska pursuant to the Submerged Lands Act of 1953 or the Alaska Statehood Act of 1959.*

*(b) AMENDMENTS TO ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT.—*

(1) *AMENDMENT OF ANILCA.*—*Except as otherwise expressly provided, whenever in this subsection an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).*

(2) *DEFINITIONS.*—*Section 102(2) (16 U.S.C. 3102(2)) is amended to read as follows:*

*“(2) The term ‘Federal land’ means lands the title to which is in the United States after December 2, 1980. ‘Federal land’ does not include lands the title to which is in the State, a Native Corporation, or other private ownership.”*

(3) *FINDINGS.*—*Section 801 (16 U.S.C. 3111) is amended—*

*(A) by inserting “(a)” immediately before “The Congress finds and declares”; and*

*(B) by inserting at the end the following new subsection:*

*“(b) The Congress finds and declares further that—*

*“(1) subsequent to the enactment of this Act in 1980, the subsistence law of the State of Alaska (AS 16.05) accomplished the goals of Congress and re-*

*quirements of this Act in providing subsistence use opportunities for rural residents of Alaska, both Native and non-Native;*

*“(2) the Alaska subsistence law was challenged in Alaska courts, and the rural preference requirement in the law was found in 1989 by the Alaska Supreme Court in McDowell v. State of Alaska (785 P.2d 1, 1989) to violate the Alaska Constitution;*

*“(3) since that time, repeated attempts to restore the validity of the State law through an amendment to the Alaska Constitution have failed, and the people of Alaska have not been given the opportunity to vote on such an amendment;*

*“(4) in accordance with title VIII of this Act, the Secretary of the Interior is required to manage fish and wildlife for subsistence uses on all public lands in Alaska because of the failure of State law to provide a rural preference;*

*“(5) the Ninth Circuit Court of Appeals determined in 1995 in State of Alaska v. Babbitt (73 F.3d 698) that the subsistence priority required on public lands under section 804 of this Act applies to navigable waters in which the United States has reserved water rights as identified by the Secretary of the Interior;*

“(6) *management of fish and wildlife resources by State governments has proven successful in all 50 States, including Alaska, and the State of Alaska should have the opportunity to continue to manage such resources on all lands, including public lands, in Alaska in accordance with this Act, as amended; and*

*“(7) it is necessary to amend portions of this Act to restore the original intent of Congress to protect and provide for the continued opportunity for subsistence uses on public lands for Native and non-Native rural residents through the management of the State of Alaska.”.*

(4) *TITLE VIII DEFINITIONS.—Section 803 (16 U.S.C. 3113) is amended—*

*(A) by striking “and” at the end of paragraph (1);*

*(B) by striking the period and inserting a semicolon at the end of paragraph (2); and*

*(C) by inserting at the end the following new paragraphs:*

*“(3) ‘customary and traditional uses’ means the noncommercial, long-term, and consistent taking of, use of, or reliance upon fish and wildlife in a specific area and the patterns and practices of taking or use of that fish and wildlife that have been established*

*over a reasonable period of time, taking into consideration the availability of the fish and wildlife;*

*“(4) ‘customary trade’ means, except for money sales of furs and furbearers, the limited noncommercial exchange for money of fish and wildlife or their parts in minimal quantities; and*

*“(5) ‘rural Alaska resident’ means a resident of a rural community or area. A ‘rural community or area’ means a community or area substantially dependent on fish and wildlife for nutritional and other subsistence uses.”.*

*(5) PREFERENCE FOR SUBSISTENCE USES.—Section 804 (16 U.S.C. 3114) is amended—*

*(A) by inserting “(a)” immediately before the first sentence; and*

*(B) by inserting at the end the following new subsection:*

*“(b) The priority granted by this section is for a reasonable opportunity to take fish and wildlife. For the purposes of this subsection, the term ‘reasonable opportunity’ means an opportunity, consistent with customary and traditional uses (as defined in section 803(3)), to participate in a subsistence hunt or fishery with a reasonable expectation of success, and does not mean a guarantee that fish and wildlife will be taken.”.*



(6) *LOCAL AND REGIONAL PARTICIPATION.*—*Section 805 (16 U.S.C. 3115) is amended—*

*(A) in subsection (a) by striking “one year after the date of enactment of this Act,”; and*

*(B) by amending subsection (d) to read as follows:*

*“(d)(1) Upon certification by the Secretary that the State has enacted and implemented laws of general applicability which are consistent with, and which provide for the definition, preference, and participation specified in sections 803, 804, and 805, the Secretary shall not implement subsections (a), (b), and (c) of this section, and the State may immediately assume management for the taking of fish and wildlife on the public lands for subsistence uses pursuant to this title. Upon assumption of such management by the State, the Secretary shall not implement subsections (a), (b), and (c) of this section unless a court of competent jurisdiction determines that such laws have been repealed, modified, or implemented in a way that is inconsistent with, or does not provide for, the definition, preference, and participation specified in sections 803, 804, and 805, or that the State has failed to cure any such inconsistency after such determination. The State laws shall otherwise supercede such sections insofar as such sections govern State responsibility pursuant to this title for the*

*taking of fish and wildlife on the public lands for subsistence uses. The Secretary may bring a judicial action to enforce this subsection.*

*“(2)(A) Laws establishing a system of local advisory committees and regional advisory councils consistent with section 805 shall provide that the State rulemaking authority shall consider the advice and recommendations of the regional councils concerning the taking of fish and wildlife populations on public lands within their respective regions for subsistence uses. The regional councils may present recommendations, and the evidence upon which such recommendations are based, to the State rulemaking authority during the course of the administrative proceedings of such authority. The State rulemaking authority may choose not to follow any recommendation which it determines is not supported by substantial evidence presented during the course of its administrative proceedings, violates recognized principles of fish and wildlife conservation or would be detrimental to the satisfaction of rural subsistence needs. If a recommendation is not adopted by the State rulemaking authority, such authority shall set forth the factual basis and the reasons for its decision.*

*“(B) The members of each regional advisory council established under this subsection shall be appointed by the Governor of Alaska. Each council shall have ten members,*

*four of whom shall be selected from nominees who reside in the region submitted by tribal councils in the region, and six of whom shall be selected from nominees submitted by local governments and local advisory committees. Three of these six shall be subsistence users who reside in the subsistence resource region and three shall be sport or commercial users who may be residents of any subsistence resource region. Regional council members shall have staggered terms of three years in length, with no limit on the number of terms a member may serve. A quorum shall be a majority of the members of the council.”.*

*(7) JUDICIAL ENFORCEMENT.—Section 807 (16 U.S.C. 3117) is amended by inserting the following as subsection (b):*

*“(b) State agency actions may be declared invalid by the court only if they are arbitrary, capricious, or an abuse of discretion, or otherwise not in accordance with law. When reviewing any action within the specialized knowledge of a State agency, the court shall give the decision of the State agency the same deference it would give the same decision of a comparable Federal agency.”.*

*(8) REGULATIONS.—Section 814 (16 U.S.C. 3124) is amended—*

(A) by inserting “, and the State at any time the State has complied with section 805(d)” after “Secretary”; and

(B) by adding at the end the following new sentence: “During any time that the State has complied with section 805(d), the Secretary shall not make or enforce regulations implementing section 805(a), (b), or (c).”.

(9) *LIMITATIONS, SAVINGS CLAUSES.*—Section 815 (16 U.S.C. 3125) is amended—

(A) by striking “or” at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon and “or”; and

(C) by inserting at the end the following new paragraph:

“(5) prohibiting the Secretary or the State from entering into co-management agreements with Native organizations or other local or regional entities when either is managing fish and wildlife on public lands in Alaska for subsistence uses.”.

(c) *SAVINGS CLAUSE.*—No provision of this section, amendment made by this section, or exercise of authority

*pursuant to this section may be construed to validate, invalidate, or in any way affect—*

*(1) any assertion that a Native organization (including a federally recognized tribe, traditional Native council, or Native council organized pursuant to the Act of June 18, 1934 (25 U.S.C. 461 et seq.), as amended) has or does not have governmental authority over lands (including management of, or regulation of the taking of, fish and wildlife) or persons within the boundaries of the State of Alaska;*

*(2) any assertion that Indian country, as defined in section 1151 of title 18, United States Code, exists or does not exist within the boundaries of the State of Alaska;*

*(3) any assertion that the Alaska National Interest Lands Conservation Act, as amended, (16 U.S.C. 3101 et seq.) is or is not Indian law; or*

*(4) the authority of the Secretary of the Interior under section 1314(c) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3202(c)).*

*(d) EFFECTIVE DATE.—Unless and until laws are adopted in the State of Alaska which provide for the definition, preference, and participation specified in sections 803, 804, and 805 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3111 et seq.), the amendments*

*made by subsection (b) of this section shall be effective only for the purposes of determining whether the State's laws provide for such definition, preference, and participation. The Secretary shall certify before December 1, 1998 if such laws have been adopted in the State of Alaska. Subsection (b) shall be repealed on such date if such laws have not been adopted.*

And the Senate agree to the same.

Amendment numbered 129:

That the House recede from its disagreement to the amendment of the Senate numbered 129, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

*SEC. 317. Section 909(b)(2) of division II, title IX of Public Law 104-333 is hereby amended to delete the sentence which reads "For technical assistance pursuant to section 908, not more than \$50,000 annually."*

And the Senate agree to the same.

Amendment numbered 130:

That the House recede from its disagreement to the amendment of the Senate numbered 130, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

*SEC. 318. No part of any appropriation contained in this Act shall be expended or obligated to fund the activities of the western director and special assistant to the Secretary within the Office of the Secretary of Agriculture that exceeds the funding provided for these activities from this Act during fiscal year 1997.*

And the Senate agree to the same.

Amendment numbered 132:

That the House recede from its disagreement to the amendment of the Senate numbered 132, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

Before the final period in the matter restored insert: *; and amend section 315(c)(1), subsection (C) as follows: after the words “the Fish and Wildlife Service”, insert “and the National Park Service”;* and the Senate agree to the same.

Amendment numbered 134:

That the House recede from its disagreement to the amendment of the Senate numbered 134, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

*SEC. 323. (a) Prior to the completion of any decision document or the making of any decision related to the final Environmental Impact Statements (hereinafter “final EISs”) associated with the Interior Columbia Basin Ecosystem Project (hereinafter the “Project”), the Secretary of Agriculture and the Secretary of the Interior shall prepare and submit to the Committees on Appropriations of the Senate and the House of Representatives a report that shall include:*

*(1) a detailed description of any and all land and resource management planning and policy or project decisions to be made, by type and by the level of official responsible, and the procedures for such decisions to be undertaken, by the Forest Service, Bureau of Land Management, and Fish and Wildlife Service pursuant to the National Forest Management Act, Federal Land Policy and Management Act, Endangered Species Act, National Environmental Policy Act and any other applicable law in order to authorize and implement actions affecting the environment on Federal lands within the jurisdiction of either Secretary in the Project area that are consistent with the final EISs;*

*(2) a detailed estimation of the time and cost (for all participating Federal agencies) to accomplish*



*each decision described in paragraph (1), from the date of initiation of preparations for, to the date of publication or announcement of, the decision, including a detailed statement of the source of funds for each such decision and any reprogramming in fiscal year 1998;*

*(3) estimated production of goods and services from each unit of the Federal lands for the first 5 years during the course of the decision making described in paragraph (1) beginning with the date of publication of the applicable final EIS; and*

*(4) if the requirements described in paragraphs (1) through (3) cannot be accomplished within the appropriations provided in this Act, adjusted only for inflation, in subsequent fiscal years and without any reprogramming of such appropriations, provide a detailed description of the decision making process that will be used to establish priorities in accordance with such appropriations.*

*(b) Using all research information available from the area encompassed by the Project, the Secretaries, to the extent practicable, shall analyze the economic and social conditions, and culture and customs, of the communities at the sub-basin level within the Project area and the impacts the alternatives in the draft EISs will have on those com-*

*munities. This analysis shall be published on a schedule that will allow a reasonable period of time for public comment thereon prior to the close of the comment periods on the draft EISs. The analysis, together with the response of the Secretaries to the public comment, shall be incorporated in the final EISs and, subject to subsection (a), subsequent decisions related thereto.*

*(c) Nothing in this section shall be construed as altering or affecting in any manner any provision of applicable land or resource management plans, PACFISH, INFISH, Eastside screens, and other policies adopted by the Forest Service or Bureau of Land Management prior to the date of enactment of this Act to protect wildlife, watershed, riparian, and other resources of the Federal lands.*

And the Senate agree to the same.

Amendment numbered 136:

That the House recede from its disagreement to the amendment of the Senate numbered 136, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended to read as follows:

*SEC. 326. (a) Notwithstanding any other provision of law, after September 30, 1997 the Indian Health Service may not disburse funds for the provision of health care services pursuant to Public Law 93-638 (25 U.S.C. 450 et*

*seq.), with any Alaska Native village or Alaska Native village corporation that is located within the area served by an Alaska Native regional health entity.*

*(b) Nothing in this section shall be construed to prohibit the disbursal of funds to any Alaska Native village or Alaska Native village corporation under any contract or compact entered into prior to August 27, 1997, or to prohibit the renewal of any such agreement.*

*(c) The General Accounting Office shall conduct a study of the impact of contracting and compacting by the Indian Health Service under Public Law 93-638 with Alaska Native villages and Alaska Native village corporations for the provision of health care services by Alaska Native regional corporation health care entities. The General Accounting Office shall submit the results of that study to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives by June 1, 1998.*

*(d) Section 1004 of the Coast Guard Authorization Act of 1996 (Public Law 104-324; 110 Stat. 3956) is amended—*

*(1) in subsection (a) by striking “for use as a health or social services facility” and insert in lieu thereof “for sale or use other than for a facility for the provision of health programs funded by the In-*

*dian Health Service (not including any such programs operated by Ketchikan Indian Corporation prior to 1993)'; and*

*(2) by striking subsection (c).*

And the Senate agree to the same.

Amendment numbered 137:

That the House recede from its disagreement to the amendment of the Senate numbered 137 , and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

*SEC. 327. None of the funds made available by this Act may be used to require any person to vacate real property where a term is expiring under a use and occupancy reservation in Sleeping Bear Dunes National Lakeshore until such time as the National Park Service (NPS) indicates to the appropriate Congressional Committees and the holders of these reservations that it has sufficient funds to remove the residence on that property within 90 days of that residence being vacated. The NPS will provide at least 90 days notice to the holders of expired reservations to allow them time to leave the residence. The NPS will charge fair market value rental rates while any occupancy continues beyond an expired reservation. Reservation holders who stay beyond the expiration date will also be re-*

*quired to pay for appraisals to determine current fair market value rental rates, any rehabilitation needed to ensure suitability for occupancy, appropriate insurance, and all continuing utility costs.*

And the Senate agree to the same.

Amendment numbered 138:

That the House recede from its disagreement to the amendment of the Senate numbered 138 , and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

*SEC. 328. (a) None of the funds made available in this Act or any other Act providing appropriations for the Department of the Interior, the Forest Service or the Smithsonian Institution may be used to submit nominations for the designation of Biosphere Reserves pursuant to the Man and Biosphere program administered by the United Nations Educational, Scientific, and Cultural Organization.*

*(b) The provisions of this section shall be repealed upon enactment of subsequent legislation specifically authorizing United States participation in the Man and Biosphere program.*

And the Senate agree to the same.

Amendment numbered 142:

That the House recede from its disagreement to the amendment of the Senate numbered 142, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

*SEC. 333. No part of any appropriation contained in this Act shall be expended or obligated to fund new revisions of national forest land management plans until new final or interim final rules for forest land management planning are published in the Federal Register. Those national forests which are currently in a revision process, having formally published a Notice of Intent to revise prior to October 1, 1997, or having been court-ordered to revise, are exempt from this section and may utilize funds in this Act and proceed to complete the forest plan revision in accordance with current forest planning regulations.*

And the Senate agree to the same.

Amendment numbered 143:

That the House recede from its disagreement to the amendment of the Senate numbered 143, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

*SEC. 333. No part of any appropriation contained in this Act shall be expended or obligated to complete and*

*issue the five year program under the Forest and Rangeland Renewable Resources Planning Act.*

And the Senate agree to the same.

Amendment numbered 144:

That the House recede from its disagreement to the amendment of the Senate numbered 144, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended as follows: After “fiscal year 1998”, delete “and each year thereafter”; and the Senate agree to the same.

Amendment numbered 146:

That the House recede from its disagreement to the amendment of the Senate numbered 146, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended as follows: After the word “may”, delete the word “hereafter”, and insert in lieu thereof: “, *until September 30, 2000,*”; and the Senate agree to the same.

Amendment numbered 150:

That the House recede from its disagreement to the amendment of the Senate numbered 150, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended to read as follows:

*SEC. 340. (a) The Secretary of Agriculture is authorized and directed to negotiate with Skamania County for the exchange of lands or interests in lands constituting the Wind River Nursery Site within the Gifford Pinchot National Forest, Washington.*

*(b) In return for the Nursery Site properties, Skamania County is authorized and directed to negotiate with the Forest Service the conveyance of approximately 120 acres of high biodiversity, special management lands located near Table Mountain within the Columbia River Gorge National Scenic Area, title to which must be acceptable to the Secretary of Agriculture.*

*(c) Before this exchange can occur, it must be of equal value and the Secretary and the Skamania County Board of Commissioners must agree on the exact parcels of land to be included in the exchange. An agreement signed by the Secretary of Agriculture and the Skamania County Board of Commissioners describing the properties involved and a certification that the exchange is of equal value must be completed no later than September 30, 1999.*

*(d) During this two year negotiating period, the Wind River Nursery property shall not be conveyed to another party. The Forest Service shall maintain the site in a tenantable condition.*



*(e) Except as provided herein, the exchange shall be for equal value in accordance with land exchange authorities applicable to the National Forest System.*

*(f) The Secretary is directed to equalize values by not only cash and exchange of lands, easements, reservations, and other interests in lands, but also by full value credit for such services as Skamania County provides to the Gifford Pinchot and Columbia River Gorge National Scenic Area and as the Secretary and Skamania County deem appropriate. The Secretary may accept services in lieu of cash when the Secretary can discern cash value for the services and when the Secretary determines such services would provide direct benefits to lands and resources and users of such lands and resources under the jurisdiction of the Secretary.*

*(g) Any cash equalization which Skamania County elects to make may be made up to 50 percent of the fair market value of the Federal property, and such cash equalization may be made in installments over a period not to exceed 25 years. Payments received as partial consideration shall be deposited into the fund in the Treasury established under the Act of December 4, 1967, commonly known as the Sisk Act, and shall be available for expenditure as provided in the Act except that the Secretary may*

*not use those funds to purchase lands within Skamania County.*

*(h) In defining the Federal estate to be conveyed, the Secretary may require such additional terms and conditions as deemed necessary in connection with assuring equal value and public interest considerations in this exchange including, but not limited to, continued research use of the Wind River Experimental Forest and protection of natural, cultural, and historic resources, existing administrative sites, and a scenic corridor for the Pacific Crest National Scenic Trail.*

*(i) This authorization is predicated on Skamania County's Board of Commissioners commitment to give foremost consideration to preservation of the overall integrity of the site and conservation of the educational and research potential of the Site, including providing for access to and assurance of the continued administration and operation of forestry research on the adjacent Thornton Munger Research Natural Area.*

*(j) The Secretary is further directed to cooperate with Skamania County to address applicable Federal and State environmental laws.*

*(k) Notwithstanding the processes involved with the National Environmental Policy Act and the State Environmental Policy Act, should the Secretary of Agriculture*

*and the Skamania County Board of Commissioners fail to reach an agreement on an equal value exchange defined under the terms of this legislation by September 30, 1999, the Wind River Nursery Site shall remain under Forest Service ownership and be maintained by the Forest Service in a tenantable condition.*

And the Senate agree to the same.

Amendment numbered 151:

That the House recede from its disagreement to the amendment of the Senate numbered 151, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

*SEC. 341. The National Wildlife Refuge in Jasper and Marion Counties, Iowa, authorized in Public Law 101-302 shall be referred to in any law, regulation, documents or record of the United States in which such project is referred to, as the Neal Smith National Wildlife Refuge.*

And the Senate agree to the same.

Amendment numbered 152:

That the House recede from its disagreement to the amendment of the Senate numbered 152, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended as follows:

After “July 1997” in said amendment insert: “*and issuing a Record of Decision*”; and the Senate agree to the same.

Amendment numbered 153:

That the House recede from its disagreement to the amendment of the Senate numbered 153, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

*SEC. 343. The Secretary of Agriculture shall hereafter phase in, over a 3 year period in equal annual installments, that portion of the fee increase for a recreation residence special use permit holder which is more than 100 percent of the previous year's fee, provided that no recreation residence fee may be increased any sooner than one year from the time the permittee has been notified by the Forest Service of the results of an appraisal which has been conducted for the purpose of establishing such fees: Provided, That no increases in recreation residence fees on the Sawtooth National Forest will be implemented prior to January 1, 1999.*

And the Senate agree to the same.

Amendment numbered 156:

That the House recede from its disagreement to the amendment of the Senate numbered 156, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended as follows:

At the end of the amendment insert:

*(c) In providing services and awarding financial assistance under the National Foundation on the Arts and Humanities Act of 1965 with funds appropriated by this Act, the Chairperson of the National Endowment for the Arts shall ensure that priority is given to providing services or awarding financial assistance for projects, productions, workshops, or programs that will encourage public knowledge, education, understanding, and appreciation of the arts.*

*(d) With funds appropriated by this Act to carry out section 5 of the National Foundation on the Arts and Humanities Act of 1965—*

*(1) the Chairperson shall establish a grant category for projects, productions, workshops, or programs that are of national impact or availability or are able to tour several States;*

*(2) the Chairperson shall not make grants exceeding 15 percent, in the aggregate, of such funds to*

*any single State, excluding grants made under the authority of paragraph (1); and*

*(3) the Chairperson shall report to the Congress annually and by State, on grants awarded by the Chairperson in each grant category under section 5 of such Act.*

*(e) Section 6(b) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 955(b)) is amended to read as follows:*

*“(b) APPOINTMENT AND COMPOSITION OF COUNCIL.—*

*(1) The Council shall be composed of members as follows:*

*“(A) The Chairperson of the National Endowment for the Arts, who shall be the chairperson of the Council.*

*“(B) Members of Congress appointed for a 2 year term beginning on January 1 of each odd-numbered year as follows:*

*“(i) Two Members of the House of Representatives appointed by Speaker of the House of Representatives.*

*“(ii) One Member of the House of Representatives appointed by the Minority Leader of the House of Representatives.*

*“(iii) One Senators appointed by the Majority Leader of the Senate.*

*“(iv) One Senator appointed by the Minority Leader of the Senate.*

*Members of the Council appointed under this subparagraph shall serve ex-officio and shall be nonvoting members of the Council.*

*“(C) 14 members appointed by the President, by and with the advice and consent of the Senate, who shall be selected—*

*“(i) from among private citizens of the United States who—*

*“(I) are widely recognized for their broad knowledge of, or expertise in, or for their profound interest in, the arts; and*

*“(II) have established records of distinguished service, or achieved eminence, in the arts;*

*“(ii) so as to include practicing artists, civic cultural leaders, members of the museum profession, and others who are professionally engaged in the arts; and*

*“(iii) so as collectively to provide an appropriate distribution of membership among major art fields and interested citizens groups.*

*In making such appointments, the President shall give due regard to equitable representation of women, minorities,*

*and individuals with disabilities who are involved in the arts and shall make such appointments so as to represent equitably all geographical areas in the United States.*

“(2) *TRANSITION TO THE NEW COUNCIL COMPOSITION.—*

“(A) *Notwithstanding paragraph (b)(1)(B), members first appointed pursuant to such paragraph shall be appointed not later than December 31, 1997. Notwithstanding such paragraph, such members shall be appointed to serve until December 31, 1998.*

“(B) *Members of the Council serving on the effective date of this subsection may continue to serve on the Council until their current terms expire and new Members shall not be appointed under subsection (b)(1)(C) until the number of Presidentially appointed members is less than 14.”*

*(f) Section 6(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 955(c)) is amended—*

*(1) by inserting “appointed under subsection (b)(1)(C)” after “member” each place it appears, and*

*(2) in the second sentence by inserting “appointed under subsection (b)(1)(C)” after “members”.*

And the Senate agree to the same.

Amendment numbered 157:



That the House recede from its disagreement to the amendment of the Senate numbered 157, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended to read as follows:

*SEC. 347. No timber sale in Region 10 shall be advertised which, when using domestic Alaska western red cedar selling values and manufacturing costs, fails to provide at least 60 percent of normal profit and risk of the appraised timber, except at the written request by a prospective bidder. Program accomplishments shall be based on volume sold. Should Region 10 sell, in fiscal year 1998, the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan which provides greater than 60 percent of normal profit and risk at the time of the sale advertisement, all of the western red cedar timber from those sales which is surplus to the needs of domestic processors in Alaska, shall be made available to domestic processors in the contiguous 48 United States at domestic rates. Should Region 10 sell, in fiscal year 1998, less than the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan meeting the 60 percent of the normal profit and risk standard at the time of advertisement, the volume of western red cedar available to*

*domestic processors at domestic rates in the contiguous 48 states shall be that volume: (i) which is surplus to the needs of domestic processors in Alaska and (ii) is that percent of the surplus western red cedar volume determined by calculating the ratio of the total timber volume which has been sold on the Tongass to the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan. All additional western red cedar volume not sold to Alaska or contiguous 48 United States domestic processors may be exported and sold at export rates at the election of the timber sale holder. All Alaska yellow cedar may be sold at export rates at the election of the timber sale holder.*

And the Senate agree to the same.

Amendment numbered 158:

That the House recede from its disagreement to the amendment of the Senate numbered 158, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

*SEC. 348. None of the funds in this Act may be used for planning, design or construction of improvements to Pennsylvania Avenue in front of the White House without the advance approval of the House and Senate Committees on Appropriations.*

And the Senate agree to the same.

Amendment numbered 162:

That the House recede from its disagreement to the amendment of the Senate numbered 162, and agree to the same with an amendment, as follows:

In lieu of the matter stricken by said amendment insert:

*TITLE IV—ENVIRONMENTAL IMPROVEMENT AND  
RESTORATION FUND*

*(a) One half of the amounts awarded by the Supreme Court to the United States in the case of United States of America v. State of Alaska (117 S.Ct. 1888) shall be deposited in a fund in the Treasury of the United States to be known as the “Environmental Improvement and Restoration Fund” (referred to in this section as the “Fund”).*

*(b) INVESTMENTS.—*

*(1) IN GENERAL.—The Secretary of the Treasury shall invest amounts in the Fund in interest bearing obligations of the United States.*

*(2) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—*

*(A) on original issue at the issue price; or*

*(B) by purchase of outstanding obligations at the market price.*

(3) *SALE OF OBLIGATIONS.*—Any obligations acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(4) *CREDITS TO FUND.*—The interest earned from investments of the Fund shall be covered into and form a part of the Fund.

(c) *TRANSFER AND AVAILABILITY OF AMOUNTS EARNED.*—Each year, interest earned and covered into the Fund in the previous fiscal year shall be available for appropriation, to the extent provided in the subsequent appropriations Acts, as follows:

(1) 80 percent of such amounts shall be made available to be equally divided among the Directors of the National Park Service, the U.S. Fish and Wildlife Service, the Bureau of Land Management, and the Chief of the Forest Service for high priority deferred maintenance and modernization of facilities that directly enhance the experience of visitors, including natural, cultural, recreational, and historic resources protection projects in National Parks, National Wildlife Refuges, and the public lands respectively as provided in subsection (d) and for payment to the State of Louisiana and its lessees for oil and gas drainage in the West Delta field. The Secretary shall submit with the annual budget submission to Congress a list

*of high priority maintenance and modernization projects for Congressional consideration.*

*(2) 20 percent of such amounts shall be made available to the Secretary of Commerce for the purpose of carrying out marine research activities in the North Pacific in accordance with subsection (e).*

*(d) PROJECTS.—A project referred to in paragraph (c)(1) shall be consistent with the laws governing the National Park System, the National Wildlife Refuge System, the public lands and Forest Service lands and management plan for such unit.*

*(e) MARINE RESEARCH ACTIVITIES.—(1) Funds available under subsection (C)(2) shall be used by the Secretary of Commerce according to this subsection to provide grants to Federal, State, private or foreign organizations or individuals to conduct research activities on or relating to the fisheries or marine ecosystems in the north Pacific Ocean, Bering Sea, and Arctic Ocean (including any lesser related bodies of water).*

*(2) Research priorities and grant requests shall be reviewed and recommended for Secretarial approval by a board to be known as the North Pacific Research Board (referred to in this subsection as the “Board”). The Board shall seek to avoid duplicating other research activities, and shall place a priority on cooperative research efforts*

*designed to address pressing fishery management or marine ecosystem information needs.*

*(3) The Board shall be comprised of the following representatives or their designees—*

*(A) the Secretary of Commerce, who shall be a co-chair of the Board;*

*(B) the Secretary of State;*

*(C) the Secretary of the Interior;*

*(D) the Commandant of the Coast Guard;*

*(E) the Director of the Office of Naval Research;*

*(F) the Alaska Commissioner of Fish and Game, who shall also be a co-chair of the Board;*

*(G) the Chairman of the North Pacific Fishery Management Council;*

*(H) the Chairman of the Arctic Research Commission;*

*(I) the Director of the Oil Spill Recovery Institute;*

*(J) the Director of the Alaska SeaLife Center;*

*(K) five members nominated by the Governor of Alaska and appointed by the Secretary of Commerce, one of whom shall represent fishing interests, one of whom shall represent Alaska Natives, one of whom shall represent environmental interests, one of whom*

*shall represent academia, and one of whom shall represent oil and gas interests;*

*(L) three members nominated by the Governor of Washington and appointed by the Secretary of Commerce; and*

*(M) one member nominated by the Governor of Oregon and appointed by the Secretary of Commerce.*

*The members of the Board shall be individuals knowledgeable by education, training, or experience regarding fisheries or marine ecosystems in the north Pacific Ocean, Bering Sea, or Arctic Ocean. Three nominations shall be submitted for each member to be appointed under subparagraphs (K), (L), and (M). Board members appointed under subparagraphs (K), (L), and (M) shall serve for three year terms, and may be reappointed.*

*(4)(A) The Secretary of Commerce shall review and administer grants recommended by the Board. If the Secretary does not approve a grant recommended by the board, the Secretary shall explain in writing the reasons for not approving such grant, and the amount recommended to be used for such grant shall be available only for other grants recommended by the Board.*

*(B) Grant recommendations and other decisions of the Board shall be by majority vote, with each member having one vote. The Board shall establish written criteria for the*

*submission of grant requests through a competitive process and for deciding upon the award of grants. Grants shall be recommended by the Board on the basis of merit in accordance with the priorities established by the Board. The Secretary shall provide the Board such administrative and technical support as is necessary for the effective functioning of the Board. The Board shall be considered an advisory panel established under section 302(g) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) for the purposes of section 302(i)(1) of such Act, and the other procedural matters applicable to advisory panels under section 302(i) of such Act shall apply to the Board to the extent practicable. Members of the Board may be reimbursed for actual expenses incurred in performance of their duties for the Board. Not more than 5 percent of the funds provided to the Secretary of Commerce under paragraph (10) may be used to provide support for the Board and administer grants under this subsection.*

*(f) SUNSET.—If amounts are not assumed by the concurrent budget resolution and appropriated from the Fund by December 15, 1998, the Fund shall terminate and the amounts in the Fund including the accrued interest shall be applied to reduce the Federal deficit.*

And the Senate agree to the same.



Amendment numbered 163:

That the House recede from its disagreement to the amendment of the Senate numbered 163, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

*TITLE V—PRIORITY LAND ACQUISITIONS, LAND EXCHANGES, AND MAINTENANCE*

*For priority land acquisitions, land exchange agreements, other activities consistent with the Land and Water Conservation Fund Act of 1965, as amended, and critical maintenance to be conducted by the Bureau of Land Management, the United States Fish and Wildlife Service, the National Park Service and the Forest Service, \$699,000,000, to be derived from the Land and Water Conservation Fund notwithstanding any other provision of law, to remain available until September 30, 2001, of which \$167,000,000 is available to the Secretary of Agriculture and \$532,000,000 is available to the Secretary of the Interior: Provided, That of the funds made available to the Secretary of Agriculture, not to exceed \$65,000,000 may be used to acquire interests to protect and preserve Yellowstone National Park, pursuant to the terms and conditions set forth in sections 502 and 504 of this title, and \$12,000,000 may be used for the rehabilitation and main-*

*tenance of the Beartooth Highway pursuant to section 502 of this title: Provided further, That of the funds made available to the Secretary of the Interior, not to exceed \$250,000,000 may be used to acquire interests to protect and preserve the Headwaters Forest, pursuant to the terms and conditions set forth in sections 501 and 504 of this title, and \$10,000,000 may be used for a direct payment to Humboldt County, California pursuant to section 501 of this title: Provided further, That the Secretary of the Interior and the Secretary of Agriculture, after consultation with the heads of the Bureau of Land Management, the United States Fish and Wildlife Service, the National Park Service and the Forest Service, shall, in fiscal year 1998 and each of the succeeding three fiscal years, jointly submit to Congress a report listing the lands and interests in land that the Secretaries propose to acquire or exchange and the maintenance requirements they propose to address using funds provided under this heading for purposes other than the purposes of sections 501 and 502 of this title: Provided further, That none of the funds appropriated under this heading for purposes other than the purposes of sections 501 and 502 of this title shall be available until the House Committee on Appropriations and the Senate Committee on Appropriations approve, in writing, a list of projects to be undertaken with such funds: Provided fur-*

*ther, That monies provided in this title, when combined with monies provided by other titles in this Act, shall, for the purposes of section 205(a) of H. Con. Res. 84 (105th Congress), be considered to provide \$700,000,000 in budget authority for fiscal year 1998 for Federal land acquisitions and to finalize priority land exchanges.*

*SEC. 501. HEADWATERS FOREST AND ELK RIVER PROPERTY ACQUISITION.—*

*(a) AUTHORIZATION.—Subject to the terms and conditions of this section, up to \$250,000,000 from the Land and Water Conservation Fund is authorized to be appropriated to acquire lands referenced in the Agreement of September 28, 1996, which consist of approximately 4,500 acres commonly referred to as the “Headwaters Forest”, approximately 1,125 acres referred to as the “Elk Head Forest”, and approximately 9,600 acres referred to as the “Elk River Property”, which are located in Humboldt County, California. This section is the sole authorization for the acquisition of such property, which is the subject of the Agreement dated September 28, 1996 between the United States of America (hereinafter “United States”), the State of California, MAXXAM, Inc., and the Pacific Lumber Company. Of the entire Elk River Property, the United States and the State of California are to retain approximately 1,845 acres and transfer the remaining ap-*

*proximately 7,755 acres of Elk River Property to the Pacific Lumber Company. The property to be acquired and retained by the United States and the State of California is that property that is the subject of the Agreement of September 28, 1996 as generally depicted on maps labeled as sheets 1 through 7 of Township 3 and 4 North, Ranges 1 East and 1 West, of the Humboldt Meridian, California, titled “Dependent Resurvey and Tract Survey”, as approved by Lance J. Bishop, Chief Cadastral Surveyor—California, on August 29, 1997. Such maps shall be on file in the Office of the Chief Cadastral Surveyor, Bureau of Land Management, Sacramento, California. The Secretary of the Interior is authorized to make such typographical and other corrections to this description as are mutually agreed upon by the parties to the Agreement of September 28, 1996. The land retained by the United States and the State of California (approximately 7,470 acres) shall hereafter be the “Headwaters Forest”. Any funds appropriated by the Federal government to acquire lands or interests in lands that enlarge the Headwaters Forest by more than five acres per each acquisition shall be subject to specific authorization enacted subsequent to this Act, except that such funds may be used pursuant to existing authorities to acquire such lands up to five acres per each acquisition*

*or interests in lands that may be necessary for roadways to provide access to the Headwaters Forest.*

*(b) EFFECTIVE PERIOD OF AUTHORIZATION.—The authorization in subsection (a) expires March 1, 1999 and shall become effective only—*

*(1) when the State of California provides a \$130,000,000 contribution for the transaction;*

*(2) when the State of California approves a Sustained Yield Plan covering Pacific Lumber Company timber property;*

*(3) when the Pacific Lumber Company dismisses the following legal actions as evidenced by instruments in form and substance satisfactory to each of the parties to such legal actions: Pacific Lumber Co. v. United States, No. 96–257L (Fed. Cls.) and Salmon Creek Corp. v. California Board of Forestry, No. 96–CS–1057 (Cal. Super. Ct.);*

*(4) when the incidental take permit under Section 10(a) of the Endangered Species Act (based upon a multi-species Habitat Conservation Plan covering Pacific Lumber Company timber property, including applicable portions of the Elk River Property) is issued by the United States Fish and Wildlife Service and the National Marine Fisheries Service;*

(5) *after an appraisal of all lands and interests therein to be acquired by the United States has been undertaken, such appraisal has been reviewed for a period not to exceed 30 days by the Comptroller General of the United States, and such appraisal has been provided to the Committee on Resources of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the Committees on Appropriations of the House and Senate;*

(6) *after the Secretary of the Interior issues an opinion of value to the Committee on Resources of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the Committees on Appropriations of the House and Senate for the land and property to be acquired by the Federal government. Such opinion of value shall also include the total value of all compensation (including tax benefits) proposed to be provided for the acquisition;*

(7) *after an environmental impact statement for the proposed Habitat Conservation Plan has been prepared and completed in accordance with the applicable provisions of the National Environmental Policy Act of 1969; and*

(8) *when adequate provision has been made for public access to the property.*

(c) *Notwithstanding any other provision of law, the amount paid by the United States to acquire identified lands and interests in lands referred to in section 501(a) may differ from the value contained in the appraisal required by section 501(b)(5) if the Secretary of the Interior certifies, in writing, to Congress that such action is in the best interest of the United States.*

(d) *HABITAT CONSERVATION PLAN.—*

(1) *APPLICABLE STANDARDS.—Within 60 days after the enactment of this section, the Secretary of the Interior and the Secretary of Commerce shall report to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives on the scientific and legal standards and criteria for threatened, endangered, and candidate species under the Endangered Species Act and any other species used to develop the habitat conservation plan (hereinafter “HCP”) and the section 10(a) incidental take permit for the Pacific Lumber Company land.*

(2) *REPORT.—If the Pacific Lumber Company submits an application for an incidental take permit under section 10(a) of the Endangered Species Act for*

*the transaction authorized by subsection (a), and the permit is not issued, then the U.S. Fish and Wildlife Service and the National Marine Fisheries Service shall set forth the substantive rationale or rationales for why the measures proposed by the applicant for such permit did not meet the issuance criteria for the species at issue. Such report shall be submitted to the Congress within 60 days of the decision not to issue such permit or by May 1, 1999, whichever is earlier.*

*(3) HCP STANDARDS.—If a section 10(a) permit for the Pacific Lumber Company HCP is issued, it shall be deemed to be unique to the circumstances associated with the acquisition authorized by this section and shall not establish a higher or lesser standard for any other multi-species HCPs than would otherwise be established under existing law.*

*(e) PAYMENT TO HUMBOLDT COUNTY.—Within 30 days of the acquisition of the Headwaters Forest, the Secretary of the Interior shall provide a \$10,000,000 direct payment to Humboldt County, California.*

*(f) PAYMENT IN LIEU OF TAXES.—The Federal portion of the Headwaters Forest acquired pursuant to this section shall be entitlement land under section 6905 of title 31 of the United States Code.*



*(g) OUT-YEAR BUDGET LIMITATIONS.—The following funding limitations and parameters shall apply to the Headwaters Forest acquired under subsection (a)—*

*(1) At least fifty percent of the total funds for management of such lands above the annual level of \$100,000 shall (with the exception of law enforcement activities and emergency activities) be from non-federal sources.*

*(2) Subject to appropriations, the authorized annual federal funding for management of such land is \$300,000 (with the exception of law enforcement activities and emergency activities).*

*(3) The Secretary of the Interior or the Headwaters Forest Management Trust referenced in subsection (h) is authorized to accept and use donations of funds and personal property from the State of California, private individuals, and other non-governmental entities for the purpose of management of the Headwaters Forest.*

*(h) HEADWATERS FOREST MANAGEMENT TRUST.—The Secretary of the Interior is authorized, with the written concurrence of the Governor of the State of California, to establish a Headwaters Forest Management Trust (“Trust”) for the management of the Headwaters Forest as follows:*

(1) *MANAGEMENT AUTHORITY.*—*The Secretary of the Interior is authorized to vest management authority and responsibility in the Trust composed of a board of five trustees each appointed for terms of three years. Two trustees shall be appointed by the Governor of the State of California. Three trustees shall be appointed by the President of the United States. The first set of trustees shall be appointed within 60 days of exercising the authority under this subsection and the terms of the trustees shall begin on such day. The Secretary of the Interior, the Secretary of Resources of the State of California, and the Chairman of the Humboldt County Board of Supervisors shall be non-voting, ex officio members of the board of trustees. The Secretary is authorized to make grants to the Trust for the management of the Headwaters Forest from amounts authorized and appropriated.*

(2) *OPERATIONS.*—*The Trust shall have the power to develop and implement the management plan for the Headwaters Forest.*

(i) *MANAGEMENT PLAN.*—

(1) *IN GENERAL.*—*A concise management plan for the Headwaters Forest shall be developed and periodically amended as necessary by the Secretary of the Interior in consultation with the State of Califor-*

*nia (and in the case that the authority provided in subsection (h) is exercised, the trustees shall develop and periodically amend the management plan), and shall meet the following requirements:*

*(A) Management goals for the plan shall be to conserve and study the land, fish, wildlife, and forests occurring on such land while providing public recreation opportunities and other management needs.*

*(B) Before a management structure and management plan are adopted for such land, the Secretary of the Interior or the board of trustees, as the case may be, shall submit a proposal for the structure and plan to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives. The proposed management plan shall not become effective until the passage of 90 days after its submission to the Committees.*

*(C) The Secretary of the Interior or the board of trustees, as the case may be, shall report annually to the Committee on Energy and Natural Resources of the Senate, the Committee on Resources of the House of Representatives, and the House and Senate Committees on Appropria-*

*tions concerning the management of lands acquired under the authority of this section and activities undertaken on such lands.*

*(2) PLAN.—The management plan shall guide general management of the Headwaters Forest. Such plan shall address the following management issues—*

*(A) scientific research on forests, fish, wildlife, and other such activities that will be fostered and permitted on the Headwaters Forest;*

*(B) providing recreation opportunities on the Headwaters Forest;*

*(C) access to the Headwaters Forest;*

*(D) construction of minimal necessary facilities within the Headwaters Forest so as to maintain the ecological integrity of the Headwaters Forest;*

*(E) other management needs; and*

*(F) an annual budget for the management of the Headwaters Forest, which shall include a projected revenue schedule (such as fees for research and recreation) and projected expenses.*

*(3) COMPLIANCE.—The National Environmental Policy Act shall apply to the development and implementation of the management plan.*

*(j) COOPERATIVE MANAGEMENT.—*

(1) *The Secretary of the Interior may enter into agreements with the State of California for the cooperative management of any of the following: Headwaters Forest, Redwood National Park, and proximate state lands. The purpose of such agreements is to acquire from and provide to the State of California goods and services to be used by the Secretary and the State of California in cooperative management of lands if the Secretary determines that appropriations for that purpose are available and an agreement is in the best interests of the United States; and*

(2) *an assignment arranged by the Secretary under section 3372 of title 5, United States Code, of a Federal or state employee for work in any Federal or State of California lands, or an extension of such assignment, may be for any period of time determined by the Secretary or the State of California, as appropriate, to be mutually beneficial.*

*SEC. 502. PROTECTION AND PRESERVATION OF YELLOWSTONE NATIONAL PARK—ACQUISITION OF CROWN BUTTE MINING INTERESTS.—*

(a) *AUTHORIZATION.—Subject to the terms and conditions of this section, up to \$65,000,000 from the Land and Water Conservation Fund is authorized to be appropriated to acquire identified lands and interests in lands*

*referred to in the Agreement of August 12, 1996 to protect and preserve Yellowstone National Park.*

*(b) CONDITIONS OF ACQUISITION AUTHORITY.—The Secretary of Agriculture may not acquire the District Property until:*

*(1) the parties to the Agreement have entered into and lodged with the United States District Court for the District of Montana a consent decree as required under the Agreement that requires, among other things, Crown Butte to perform response or restoration actions (or both) or pay for such actions in accordance with the Agreement;*

*(2) an appraisal of the District Property has been undertaken, such appraisal has been reviewed for a period not to exceed 30 days by the Comptroller General of the United States, and such appraisal has been provided to the Committee on Resources of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the House and Senate Committees on Appropriations;*

*(3) after the Secretary of Agriculture issues an opinion of value to the Committee on Resources of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the House and Senate Committees on Appropriations for the*

*land and property to be acquired by the Federal government; and*

*(4) the applicable requirements of the National Environmental Policy Act have been met.*

*(c) Notwithstanding any other provision of law, the amount paid by the United States to acquire identified lands and interests in lands referred to in the Agreement of August 12, 1996 to protect and preserve Yellowstone National Park may exceed the value contained in the appraisal required by section 502(b)(2) if the Secretary of Agriculture certifies, in writing, to Congress that such action is in the best interest of the United States.*

*(d) DEPOSIT IN ACCOUNT.—Immediately upon receipt of payments from the United States, Crown Butte shall deposit \$22,500,000 in an interest bearing account in a private, federally chartered financial institution that, in accordance with the Agreement, shall be—*

*(1) acceptable to the Secretary of Agriculture; and*

*(2) available to carry out response and restoration actions.*

*The balance of amounts remaining in such account after completion of response and restoration actions shall be available to the Secretary of Agriculture for use in the*

*New World Mining District for any environmentally beneficial purpose otherwise authorized by law.*

(e) *MAINTENANCE AND REHABILITATION OF BEARTOOTH HIGHWAY.—*

(1) *MAINTENANCE.—The Secretary of Agriculture shall, consistent with the funds provided herein, be responsible for—*

(A) *snow removal on the Beartooth Highway from milepost 0 in Yellowstone National Park, into and through Wyoming, to milepost 43.1 on the border between Wyoming and Montana; and*

(B) *pavement preservation, in conformance with a pavement preservation plan, on the Beartooth Highway from milepost 8.4 to milepost 24.5.*

(2) *REHABILITATION.—The Secretary of Agriculture shall be responsible for conducting rehabilitation and minor widening of the portion of the Beartooth Highway in Wyoming that runs from milepost 24.5 to milepost 43.1.*

(3) *AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Agriculture—*



(A) for snow removal and pavement preservation under paragraph (1), \$2,000,000; and

(B) for rehabilitation under paragraph (2), \$10,000,000.

(4) *AVAILABILITY OF FUNDS.*—Within 30 days of the acquisition of lands and interests in lands pursuant to this section, the funds authorized in subsection (e)(3) and appropriated herein for that purpose shall be made available to the Secretary of Agriculture.

(f) *RESPONSE AND RESTORATION PLAN.*—The Administrator of the Environmental Protection Agency and the Secretary of Agriculture shall approve or prepare a plan for response and restoration activities to be undertaken pursuant to the Agreement and a quarterly accounting of expenditures made pursuant to such plan. The plan and accountings shall be transmitted to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House and Senate Committees on Appropriations.

(g) *MAP.*—The Secretary of Agriculture shall provide to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House and Senate Committees on Appropriations, a map depicting the acreage to be acquired pursuant to this section.

(h) *DEFINITIONS.*—*In this section:*

(1) *AGREEMENT.*—*The term “Agreement” means the agreement in principle, concerning the District Property, entered into on August 12, 1996 by Crown Butte Mines, Inc., Crown Butte Resources Ltd., Greater Yellowstone Coalition, Northwest Wyoming Resource Council, Sierra Club, Gallatin Wildlife Association, Wyoming Wildlife Federation, Montana Wildlife Federation, Wyoming Outdoor Council, Beartooth Alliance, and the United States of America, with such other changes mutually agreed to by the parties;*

(2) *BEARTOOTH HIGHWAY.*—*The term “Beartooth Highway” means the portion of United States Route 212 that runs from the northeast entrance of Yellowstone National Park near Silver Gate, Montana, into and through Wyoming to Red Lodge, Montana.*

(3) *CROWN BUTTE.*—*The term “Crown Butte” means Crown Butte Mines, Inc. and Crown Butte Resources Ltd., acting jointly.*

(4) *DISTRICT PROPERTY.*—*The term “District Property” means the portion of the real property interests specifically described as District Property in appendix B of the Agreement.*

(5) *NEW WORLD MINING DISTRICT.*—*The term “New World Mining District” means the New World Mining District as specifically described in appendix A of the Agreement.*

*SEC. 503. CONVEYANCE TO STATE OF MONTANA.*—

(a) *CONVEYANCE REQUIREMENT.*—*Not later than January 1, 2001, but not prior to 180 days after the enactment of this Act, the Secretary of the Interior shall convey to the State of Montana, without consideration, all right, title, and interest of the United States in and to—*

(1) *\$10,000,000 in Federal mineral rights in the State of Montana agreed to by the Secretary of the Interior and the Governor of Montana through negotiations in accordance with paragraph (b); or*

(2) *all Federal mineral rights in the tracts in Montana depicted as Otter Creek number 1, 2, and 3 on the map entitled “Ashland Map”.*

(b) *NEGOTIATIONS.*—*The Secretary of the Interior shall promptly enter into negotiations with the Governor of Montana for purposes of paragraph (a)(1) to determine and agree to mineral rights owned by the United States having a fair market value of \$10,000,000.*

(c) *FEDERAL LAW NOT APPLICABLE TO CONVEYANCE.*—*Any conveyance under paragraph (a) shall not be subject to the Mineral Leasing Act (30 U.S.C. 181 et seq.).*

*(d) AVAILABILITY OF MAP.—The Secretary of the Interior shall keep the map referred to in paragraph (a)(2) on file and available for public inspection in appropriate offices of the Department of the Interior located in the District of Columbia and Billings, Montana, until January 1, 2001.*

*(e) CONVEYANCE DEPENDENT UPON ACQUISITION.—No conveyance pursuant to paragraph (a) shall take place unless the acquisition authorized in section 502(a) is executed.*

*SEC. 504. The acquisitions authorized by sections 501 and 502 of this title may not occur prior to the earlier of: (1) 180 days after enactment of this Act; or (2) enactment of separate authorizing legislation that modifies section 501, 502, or 503 of this title. Within 120 days of enactment, the Secretary of the Interior and the Secretary of Agriculture, respectively, shall submit to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House and Senate Committees on Appropriations, reports detailing the status of efforts to meet the conditions set forth in this title imposed on the acquisition of the interests to protect and preserve the Headwaters Forest and the acquisition of interests to protect and preserve Yellowstone National Park. For every day beyond 120 days after the en-*

*actment of this Act that the appraisals required in subsections 501(b)(5) and 502(b)(2) are not provided to the Committee on Resources of the House, the Committee on Energy and Natural Resources of the Senate and the House and Senate Committees on Appropriations in accordance with such subsections, the 180 day period referenced in this section shall be extended by one day.*

*SEC. 505. The Land and Water Conservation Fund Act of 1965 (Public Law 88-578; 78 Stat. 897) (16 U.S.C. 460l-4-11) is amended by moving section 13 (as added by section 1021(b) of the Omnibus Parks and Public Lands Management Act of 1996; 110 Stat. 4210) so as to appear in title I of that Act following section 12.*

And the Senate agree to the same.

Amendment numbered 164:

That the House recede from its disagreement to the amendment of the Senate numbered 164, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended to read as follows:

***TITLE VI—FOREST RESOURCES CONSERVATION  
AND SHORTAGE RELIEF***

*SEC. 601. SHORT TITLE.—This Act may be cited as the “Forest Resources Conservation and Shortage Relief Act of 1997”.*

*SEC. 602. (a) USE OF UNPROCESSED TIMBER—LIMITATION ON SUBSTITUTION OF UNPROCESSED FEDERAL TIMBER FOR UNPROCESSED TIMBER FROM PRIVATE LAND.—Section 490 of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620b) is amended—*

*(1) in subsection (a)—*

*(A) in paragraph (1), by inserting “paragraph (3) and” after “provided in”; and*

*(B) by adding at the end the following:*

*“(3) APPLICABILITY.—In the case of the purchase by a person of unprocessed timber originating from Federal lands west of the 119th meridian in the State of Washington, paragraph 1 shall apply only if—*

*“(A) the private lands referred to in paragraph (1) are owned by the person; or*

*“(B) the person has the exclusive right to harvest timber from the private lands described in paragraph (1) during a period of more than 7 years, and may exercise that right at any time of the person’s choosing.”;*

*(2) in subsection (c)—*

*(A) in the subsection heading, by striking “APPROVAL OF”;*

*(B) in paragraph (2)—*

*(i) in the paragraph heading, by inserting “FOR SOURCING AREAS FOR PROCESSING FACILITIES LOCATED OUTSIDE THE NORTHWESTERN PRIVATE TIMBER OPEN MARKET AREA”; after “APPLICATION”; and*

*(ii) in subparagraph (A), by inserting “(except private land located in the northwestern private timber open market area)” after “lands”;*

*(C) in paragraph (3)—*

*(i) in the paragraph heading, by inserting “FOR SOURCING AREAS FOR PROCESSING FACILITIES LOCATED OUTSIDE OF THE NORTHWESTERN PRIVATE TIMBER OPEN MARKET AREA.—(A) IN GENERAL”; after “APPROVAL”; and*

*(ii) by striking the last sentence of paragraph (3) and adding at the end the following:*

*“(B) FOR TIMBER MANUFACTURING FACILITIES LOCATED IN IDAHO.—Except as provided in subparagraph (D), in making a determination referred to in subparagraph (A), the Secretary concerned shall consider the private timber ex-*

*port and the private and Federal timber sourcing patterns for the applicant's timber manufacturing facilities, as well as the private and Federal timber sourcing patterns for the timber manufacturing facilities of other persons in the same local vicinity of the applicant, and the relative similarity of such private and Federal timber sourcing patterns.*

*“(C) FOR TIMBER MANUFACTURING FACILITIES LOCATED IN STATES OTHER THAN IDAHO.— Except as provided in subparagraph (D), in making the determination referred to in subparagraph (A), the Secretary concerned shall consider the private timber export and the Federal timber sourcing patterns for the applicant's timber manufacturing facilities, as well as the Federal timber sourcing patterns for the timber manufacturing facilities of other persons in the same local vicinity of the applicant, and the relative similarity of such Federal timber sourcing patterns. Private timber sourcing patterns shall not be a factor in such determinations in States other than Idaho.*



“(D) *AREA NOT INCLUDED.*—*In deciding whether to approve or disapprove an application, the Secretary shall not—*

“(i) *consider land located in the northwestern private timber open market area; or*

“(ii) *condition approval of the application on the inclusion of any such land in the applicant’s sourcing area, such land being includable in the sourcing area only to the extent requested by the applicant.*”;

(D) *in paragraph (4), in the paragraph heading, by inserting “FOR SOURCING AREAS FOR PROCESSING FACILITIES LOCATED OUTSIDE THE NORTHWESTERN PRIVATE TIMBER OPEN MARKET AREA”;*  
*after “APPLICATION”;*

(E) *in paragraph (5), in the paragraph heading, by inserting “FOR SOURCING AREAS FOR PROCESSING FACILITIES LOCATED OUTSIDE THE NORTHWESTERN PRIVATE TIMBER OPEN MARKET AREA”;*  
*after “DETERMINATIONS”;* and

(F) *by adding at the end the following:*

*“(6) SOURCING AREAS FOR PROCESSING FACILITIES LOCATED IN THE NORTHWESTERN PRIVATE TIMBER OPEN MARKET AREA.—*

*“(A) ESTABLISHMENT.—In the northwestern private timber open market area—*

*“(i) a sourcing area boundary shall be a circle around the processing facility of the sourcing area applicant or holder;*

*“(ii) the radius of the circle—*

*“(I) shall be the furthest distance that the sourcing area applicant or holder proposes to haul Federal timber for processing at the processing facility; and*

*“(II) shall be determined solely by the sourcing area applicant or holder;*

*“(iii) a sourcing area shall become effective on written notice to the Regional Forester for Region 6 of the Forest Service of the location of the boundary of the sourcing area;*

*“(iv) the 24-month requirement in paragraph (1)(A) shall not apply;*

*“(v) a sourcing area holder—*

“(I) may adjust the radius of the sourcing area not more frequently than once every 24 months; and

“(II) shall provide written notice to the Regional Forester for Region 6 of the adjusted boundary of its sourcing area before using the adjusted sourcing area; and

“(vi) a sourcing area holder that relinquishes a sourcing area may not reestablish a sourcing area for that processing facility before the date that is 24 months after the date on which the sourcing area was relinquished.

“(B) *TRANSITION.*—With respect to a portion of a sourcing area established before the date of enactment of this paragraph that contains Federal timber under contract before that date and is outside the boundary of a new sourcing area established under subparagraph (A)—

“(i) that portion shall continue to be a sourcing area only until unprocessed Federal timber from the portion is no longer in the possession of the sourcing area holder; and

“(i) *unprocessed timber from private land in that portion shall be exportable immediately after unprocessed timber from Federal land in the portion is no longer in the possession of the sourcing area holder.*

“(7) *RELINQUISHMENT AND TERMINATION OF SOURCING AREAS.—*

“(A) *IN GENERAL.—A sourcing area may be relinquished at any time.*

“(B) *EFFECTIVE DATE.—A relinquishment of a sourcing area shall be effective as of the date on which written notice is provided by the sourcing area holder to the Regional Forester with jurisdiction over the sourcing area where the processing facility of the holder is located.*

“(C) *EXPORTABILITY.—*

“(i) *IN GENERAL.—On relinquishment or termination of a sourcing area, unprocessed timber from private land within the former boundary of the relinquished or terminated sourcing area is exportable immediately after unprocessed timber from Federal land from within that area is no longer in the possession of the former sourcing area holder.*

“(ii) *NO RESTRICTION.*—*The exportability of unprocessed timber from private land located outside of a sourcing area shall not be restricted or in any way affected by relinquishment or termination of a sourcing area.*”; and

(3) *by adding at the end the following:*

“(d) *DOMESTIC TRANSPORTATION AND PROCESSING OF PRIVATE TIMBER.*—*Nothing in this section restricts or authorizes any restriction on the domestic transportation or processing of timber harvested from private land, except that the Secretary may prohibit processing facilities located in the State of Idaho that have sourcing areas from processing timber harvested from private land outside of the boundaries of those sourcing areas.*”.

(b) *RESTRICTION OF EXPORTS OF UNPROCESSED TIMBER FROM STATE AND PUBLIC LAND.*—*Section 491(b)(2) of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620c(b)(2)) is amended—*

(1) *by striking “the following” and all that follows through “(A) The Secretary” and inserting “the Secretary”;*

(2) *by striking “during the period beginning on June 1, 1993, and ending on December 31, 1995” and*

*inserting “as of the date of enactment of the Forest Resources Conservation and Shortage Relief Act of 1997”; and*

*(3) by striking subparagraph (B).*

*SEC. 603. MONITORING AND ENFORCEMENT.—Section 492 of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620d) is amended—*

*(1) in subsection (c)(2), by adding at the end the following:*

*“(C) MITIGATION OF PENALTIES.—*

*“(i) IN GENERAL.—The Secretary concerned—*

*“(I) in determining the applicability of any penalty imposed under this paragraph, shall take into account all relevant mitigating factors, including mistake, inadvertence, and error; and*

*“(II) based on any mitigating factor, may, with respect to any penalty imposed under this paragraph—*

*“(aa) reduce the penalty;*

*“(bb) not impose the penalty;*

*or*

“(cc) on condition of there being no further violation under this paragraph for a prescribed period, suspend imposition of the penalty.

“(ii) *CONTRACTURAL REMEDIES.*—In the case of a minor violation of this title (including a regulation), the Secretary concerned shall, to the maximum extent practicable, permit a contracting officer to redress the violation in accordance with the applicable timber sale contract rather than assess a penalty under this paragraph.”; and

(2) in subsection (d)(1)—

(A) by striking “The head” and inserting the following:

“(A) *IN GENERAL.*—Subject to subparagraph (B), the head”; and

(B) by adding at the end the following:

“(B) *PREREQUISITES FOR DEBARMENT.*—

“(i) *IN GENERAL.*—No person may be debarred from bidding for or entering into a contract for the purchase of unprocessed timber from Federal lands under subpara-

*graph (A) unless the head of the appropriate Federal department or agency first finds, on the record and after an opportunity for a hearing, that debarment is warranted.*

*“(ii) WITHHOLDING OF AWARDS DURING DEBARMENT PROCEEDINGS.—The head of an appropriate Federal department or agency may withhold an award under this title of a contract for the purchase of unprocessed timber from Federal lands during a debarment proceeding.”.*

*SEC. 604. DEFINITIONS.—Section 493 of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620e) is amended—*

*(1) by redesignating paragraphs (3) through (8) as paragraphs (5) through (10), respectively;*

*(2) by inserting after paragraph (2) the following:*

*“(3) MINOR VIOLATION.—The term ‘minor violation’ means a violation, other than an intentional violation, involving a single contract, purchase order, processing facility, or log yard involving a quantity of logs that is less than 25 logs and has a total value (at the time of the violation) of less than \$10,000.*



“(4) *NORTHWESTERN PRIVATE TIMBER OPEN MARKET AREA.*—*The term ‘northwestern private timber open market area’ means the State of Washington.*”;

(3) *in subparagraph (B)(ix) of paragraph (9) (as redesignated by paragraph (1))—*

(A) *by striking “Pulp logs or cull logs” and inserting “Pulp logs, cull logs, and incidental volumes of grade 3 and 4 sawlogs”;*

(B) *by inserting “primary” before “purpose”;* and

(C) *by striking the period at the end and inserting: “, or to the extent that a small quantity of such logs are processed, into other products at domestic processing facilities.”;* and

(4) *by adding at the end the following:*

“(11) *VIOLATION.*—*The term ‘violation’ means a violation of this Act (including a regulation issued to implement this Act) with regard to a course of action, including—*

“(A) *in the case of a violation by the original purchaser of unprocessed timber, an act or omission with respect to a single timber sale;*  
and

*“(B) in the case of a violation of a subsequent purchaser of the timber, an act or omission with respect to an operation at a particular processing facility or log yard.”.*

*SEC. 605. REGULATIONS.—Section 495(a) of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620f(a)) is amended—*

*(1) by striking “The Secretaries” and inserting the following:*

*“(1) AGRICULTURE AND INTERIOR.—The Secretaries”;*

*(2) by striking “The Secretary of Commerce” and inserting the following:*

*“(2) COMMERCE.—The Secretary of Commerce”;*  
*and*

*(3) by striking the last sentence and inserting the following:*

*“(3) DEADLINE.—*

*“(A) IN GENERAL.—Except as otherwise provided in this title, regulations and guidelines required under this subsection shall be issued not later than June 1, 1998.*

*“(B) The regulations and guidelines issued under this title that were in effect prior to September 8, 1995 shall remain in effect until new*

*regulations and guidelines are issued under subparagraph (A).*

*“(4) PAINTING AND BRANDING.—*

*“(A) IN GENERAL.—The Secretary concerned shall issue regulations that impose reasonable painting, branding, or other forms of marking or tracking requirements on unprocessed timber if—*

*“(i) the benefits of the requirements outweigh the cost of complying with the requirements; and*

*“(ii) the Secretary determines that, without the requirements, it is likely that the unprocessed timber—*

*“(I) would be exported in violation of this title; or*

*“(II) if the unprocessed timber originated from Federal lands, would be substituted for unprocessed timber originating from private lands west of the 100th Meridian in the contiguous 48 States in violation of this title.*

*“(B) MINIMUM SIZE.—The Secretary concerned shall not impose painting, branding, or*

*other forms of marking or tracking requirements on—*

*“(i) the face of a log that is less than 7 inches in diameter; or*

*“(ii) unprocessed timber that is less than 8 feet in length or less than  $\frac{1}{3}$  sound wood.*

*“(C) WAIVERS.—*

*“(i) IN GENERAL.—The Secretary concerned may waive log painting and branding requirements—*

*“(I) for a geographic area, if the Secretary determines that the risk of the unprocessed timber being exported from the area or used in substitution is low;*

*“(II) with respect to unprocessed timber originating from private lands located within an approved sourcing area for a person who certifies that the timber will be processed at a specific domestic processing facility to the extent that the processing does occur; or*

*“(III) as part of a log yard agreement that is consistent with the pur-*

*poses of the export and substitution restrictions imposed under this title.*

“(ii) *REVIEW AND TERMINATION OF WAIVERS.*—A waiver granted under clause (i)—

“(I) *shall, to the maximum extent practicable, be reviewed once a year; and*

“(II) *shall remain effective until terminated by the Secretary.*

“(D) *FACTORS.*—In making a determination under this paragraph, the Secretary concerned shall consider—

“(i) *the risk of unprocessed timber of that species, grade, and size being exported or used in substitution;*

“(ii) *the location of the unprocessed timber and the effect of the location on its being exported or used in substitution;*

“(iii) *the history of the person involved with respect to compliance with log painting and branding requirements; and*

“(iv) *any other factor that is relevant to determining the likelihood of the unproc-*

*essed timber being exported or used in substitution.*

“(5) *REPORTING.*—

“(A) *IN GENERAL.*—*Subject to subparagraph (B), the Secretary concerned shall issue regulations that impose reasonable documentation and reporting requirements if the benefits of the requirements outweigh the cost of complying with the requirements.*

“(B) *WAIVERS.*—

“(i) *IN GENERAL.*—*The Secretary concerned may waive documentation and reporting requirements for a person if—*

“(I) *an audit of the records of the facility of the person reveals substantial compliance with all notice, reporting, painting, and branding requirements during the preceding year; or*

“(II) *the person transferring the unprocessed timber and the person processing the unprocessed timber enter into an advance agreement with the Secretary concerned regarding the disposition of the unprocessed timber by domestic processing.*

“(i) *REVIEW AND TERMINATION OF WAIVERS.*—A waiver granted under clause (i)—

“(I) shall, to the maximum extent practicable, be reviewed once a year; and

“(II) shall remain effective until terminated by the Secretary.”.

And the Senate agree to the same.

Amendment numbered 165:

That the House recede from its disagreement to the amendment of the Senate numbered 165, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended to read as follows:

*TITLE VII—MICCOSUKEE SETTLEMENT*

*SEC. 701. SHORT TITLE.*—This title may be cited as the “*Miccosukee Settlement Act of 1997*”.

*SEC. 702. CONGRESSIONAL FINDINGS.*—Congress finds that:

(1) *There is pending before the United States District Court for the Southern District of Florida a lawsuit by the Miccosukee Tribe that involves the taking of certain tribal lands in connection with the con-*

*struction of highway Interstate 75 by the Florida Department of Transportation.*

*(2) The pendency of the lawsuit referred to in paragraph (1) clouds title of certain lands used in the maintenance and operation of the highway and hinders proper planning for future maintenance and operations.*

*(3) The Florida Department of Transportation, with the concurrence of the Board of Trustees of the Internal Improvements Trust Fund of the State of Florida, and the Miccosukee Tribe have executed an agreement for the purpose of resolving the dispute and settling the lawsuit.*

*(4) The agreement referred to in paragraph (3) requires the consent of Congress in connection with contemplated land transfers.*

*(5) The Settlement Agreement is in the interest of the Miccosukee Tribe, as the Tribe will receive certain monetary payments, new reservation lands to be held in trust by the United States, and other benefits.*

*(6) Land received by the United States pursuant to the Settlement Agreement is in consideration of Miccosukee Indian Reservation lands lost by the Miccosukee Tribe by virtue of transfer to the Florida*



*Department of Transportation under the Settlement Agreement.*

*(7) The lands referred to in paragraph (6) as received by the United States will be held in trust by the United States for the use and benefit of the Miccosukee Tribe as Miccosukee Indian Reservation lands in compensation for the consideration given by the Tribe in the Settlement Agreement.*

*(8) Congress shares with the parties to the Settlement Agreement a desire to resolve the dispute and settle the lawsuit.*

*SEC. 703. DEFINITIONS.—In this title:*

*(1) BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENTS TRUST FUND.—The term “Board of Trustees of the Internal Improvements Trust Fund” means the agency of the State of Florida holding legal title to and responsible for trust administration of certain lands of the State of Florida, consisting of the Governor, Attorney General, Commissioner of Agriculture, Commissioner of Education, Controller, Secretary of State, and Treasurer of the State of Florida, who are Trustees of the Board.*

*(2) FLORIDA DEPARTMENT OF TRANSPORTATION.—The term “Florida Department of Trans-*

portation” means the executive branch department and agency of the State of Florida that—

(A) is responsible for the construction and maintenance of surface vehicle roads, existing pursuant to section 20.23, Florida Statutes; and

(B) has the authority to execute the Settlement Agreement pursuant to section 334.044, Florida Statutes.

(3) *LAWSUIT*.—The term “lawsuit” means the action in the United States District Court for the Southern District of Florida, entitled *Miccosukee Tribe of Indians of Florida v. State of Florida and Florida Department of Transportation, et al.*, docket No. 6285–Civ–Paine.

(4) *MICCOSUKEE LANDS*.—The term “Miccosukee lands” means lands that are—

(A) held in trust by the United States for the use and benefit of the Miccosukee Tribe as Miccosukee Indian Reservation lands; and

(B) identified pursuant to the Settlement Agreement for transfer to the Florida Department of Transportation.

(5) *MICCOSUKEE TRIBE; TRIBE*.—The terms “Miccosukee Tribe” and “Tribe” mean the Miccosukee Tribe of Indians of Florida, a tribe of American Indi-

ans recognized by the United States and organized under section 16 of the Act of June 18, 1934 (48 Stat. 987, chapter 576; 25 U.S.C. 476) and recognized by the State of Florida pursuant to chapter 285, Florida Statutes.

(6) *SECRETARY*.—The term “Secretary” means the Secretary of the Interior.

(7) *SETTLEMENT AGREEMENT; AGREEMENT*.—The terms “Settlement Agreement” and “Agreement” mean the assemblage of documents entitled “Settlement Agreement” (with incorporated exhibits) that—

(A) addresses the lawsuit; and

(B)(i) was signed on August 28, 1996, by Ben G. Watts (Secretary of the Florida Department of Transportation) and Billy Cypress (Chairman of the Miccosukee Tribe); and

(ii) after being signed, as described in clause (i), was concurred in by the Board of Trustees of the Internal Improvements Trust Fund of the State of Florida.

(8) *STATE OF FLORIDA*.—The term “State of Florida” means—

(A) all agencies or departments of the State of Florida, including the Florida Department of

*Transportation and the Board of Trustees of the Internal Improvements Trust Fund; and*

*(B) the State of Florida as a governmental entity.*

*SEC. 704. RATIFICATION.—The United States approves, ratifies, and confirms the Settlement Agreement.*

*SEC. 705. AUTHORITY OF SECRETARY.—As Trustee for the Miccosukee Tribe, the Secretary shall—*

*(1)(A) aid and assist in the fulfillment of the Settlement Agreement at all times and in a reasonable manner; and*

*(B) to accomplish the fulfillment of the Settlement Agreement in accordance with subparagraph (A), cooperate with and assist the Miccosukee Tribe;*

*(2) upon finding that the Settlement Agreement is legally sufficient and that the State of Florida has the necessary authority to fulfill the Agreement—*

*(A) sign the Settlement Agreement on behalf of the United States; and*

*(B) ensure that an individual other than the Secretary who is a representative of the Bureau of Indian Affairs also signs the Settlement Agreement;*

*(3) upon finding that all necessary conditions precedent to the transfer of Miccosukee land to the*

*Florida Department of Transportation as provided in the Settlement Agreement have been or will be met so that the Agreement has been or will be fulfilled, but for the execution of that land transfer and related land transfers—*

*(A) transfer ownership of the Miccosukee land to the Florida Department of Transportation in accordance with the Settlement Agreement, including in the transfer solely and exclusively that Miccosukee land identified in the Settlement Agreement for transfer to the Florida Department of Transportation; and*

*(B) in conjunction with the land transfer referred to in subparagraph (A), transfer no land other than the land referred to in that subparagraph to the Florida Department of Transportation; and*

*(4) upon finding that all necessary conditions precedent to the transfer of Florida lands from the State of Florida to the United States have been or will be met so that the Agreement has been or will be fulfilled but for the execution of that land transfer and related land transfers, receive and accept in trust for the use and benefit of the Miccosukee Tribe owner-*

*ship of all land identified in the Settlement Agreement for transfer to the United States.*

*SEC. 706. MICCOSUKEE INDIAN RESERVATION LANDS.—The lands transferred and held in trust for the Miccosukee Tribe under section 705(4) shall be Miccosukee Indian Reservation lands.*

*SEC. 707. MISCELLANEOUS.—(a) RULE OF CONSTRUCTION.—Nothing in this Act or the Settlement Agreement shall—*

*(1) affect the eligibility of the Miccosukee Tribe or its members to receive any services or benefits under any program of the Federal Government; or*

*(2) diminish the trust responsibility of the United States to the Miccosukee Tribe and its members.*

*(b) NO REDUCTIONS IN PAYMENTS.—No payment made pursuant to this Act or the Settlement Agreement shall result in any reduction or denial of any benefits or services under any program of the Federal Government to the Miccosukee Tribe or its members, with respect to which the Tribe or the members of the Tribe are entitled or eligible because of the status of—*

*(1) the Miccosukee Tribe as a federally recognized Indian tribe; or*

*(2) any member of the Miccosukee Tribe as a member of the Tribe.*

(c) *TAXATION.*—

(1) *IN GENERAL.*—

(A) *MONIES.*—None of the monies paid to the Miccosukee Tribe under this Act or the Settlement Agreement shall be taxable under Federal or State law.

(B) *LANDS.*—None of the lands conveyed to the Miccosukee Tribe under this Act or the Settlement Agreement shall be taxable under Federal or State law.

(2) *PAYMENTS AND CONVEYANCES NOT TAXABLE EVENTS.*—No payment or conveyance referred to in paragraph (1) shall be considered to be a taxable event.

And the Senate agree to the same.