

# **DRAFT FOR DISCUSSION**

## **THREE RIVERS CHALLENGE COOPERATIVE STEWARDSHIP, RESTORATION, RECREATION AND CONSERVATION ACT OF 2009**

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A BILL

To sustain the economic development and recreational use of National Forest System lands and other public lands in west Lincoln County Montana, to reduce gridlock and promote local cooperation and collaboration in forest management, to produce forest diversity and wood fiber to accomplish measurable habitat restoration using stewardship contracting while generating a more predictable flow of wood products for local communities, to better prevent and manage wild land fire and better protect adjoining private land and property and to protect recreation (motorized and nonmotorized); to protect certain backcountry areas; and to protect hunting and angling. It is understood that all parts of this legislation are interconnected and that all parts move together.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

### **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

- (a) Short Title- This Act may be cited as the Three Rivers Challenge Cooperative Stewardship, Restoration, Recreation and Conservation Act of 2009.
- (b) Table of Contents- The table of contents for this Act is as follows:

### **SECTION 2. PURPOSES**

### **SECTION 3. DEFINITIONS**

1. Secretary— the term “Secretary” means the Secretary of Agriculture.
2. Kootenai National Forest – Three Rivers District Cooperative Stewardship Study Area—the term “Three Rivers District Cooperative Stewardship Study Area” means the area covered by the Three Rivers District on the Kootenai National Forest which is combined into a single administrative unit and administered by the USDA Forest Service.
3. Forest Plan— The term “Forest Plan” means a land and resource management prepared under Section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604).
4. Stewardship Area – The term “Stewardship Area” means the area designated in

Section 101 and depicted on the map entitled \_\_\_\_\_, dated \_\_\_\_\_, in which the Secretary shall implement two or more landscape scale restoration projects as directed in Section 102.

5. Landscape Scale Restoration Project – The term “Landscape Scale Restoration Project” means an area of between 2,500 and 3,000 acres within a Stewardship Area where vegetation management through commercial timber harvest, prescribed burning and other silvicultural techniques shall occur, with the majority of vegetative management designed to mimic mixed severity fires, and vegetation management goals to include reducing the risk and severity of fire and insect infestations, restoring impaired watersheds, and maintaining the current infrastructure of wood products manufacturing facilities that provide economic stability to local communities by preserving and/or adding 50 full-time forest related jobs

6. Stewardship Contract – The term “Stewardship Contract” means a contract authorized under Sec. 332 of PL 107-63, 16 U.S.C. 2104 Note (Revised February 28, 2003 to reflect Sec. 323 of H.J. Res. 2 as enrolled), for vegetation treatment including mechanical treatment using commercial timber harvest of vegetation to reduce fire and insect risk, restore impaired watersheds, enhance fish and wildlife habitat or reduce road densities. A stewardship contract includes the ability to (1) offset the value of goods such as timber for services; (2) retain and reinvest the receipts in the same or another landscape scale restoration project within a Stewardship Area; (3) designate timber for cutting by description or prescription; (4) enter into a multi-year contract for services exceeding five years but not more than ten years duration and (5) the rules for evaluating Stewardship Contracting Projects by contractors shall place at least a 40% weight factor for local contractors – defined as Lincoln and Sanders County - bidding on work within the area defined by Title 1, Section 101.

7. Eligible Land – The term “Eligible Land” means lands within the Stewardship Area generally forested where landscape scale restoration projects shall be implemented as depicted on the map referenced in Section 101(b).

## **TITLE I**

### **SECTION 101. DESIGNATION OF COOPERATIVE STEWARDSHIP STUDY AREA**

(a) Designation - Those National Forest lands in the Kootenai National Forest, as generally depicted on the maps dated \_\_\_\_\_, 2009, are hereby designated as a Cooperative Stewardship Study Area to reduce fire and insect risk, promote forest health through thinning and stand improvements, restore impaired watersheds, and enhance fish and wildlife habitat:

(1) Three Rivers District Cooperative Stewardship Study Area –comprising approximately XXX acres generally depicted on a map entitled “Three Rivers Challenge Cooperative Stewardship Study Area.” Within the Three Rivers District Cooperative Stewardship Study Area, there are approximately XXX acres of eligible land that shall be managed under landscape scale restoration projects and will target first but is not limited to the acres within the wildland urban interface. Three zones will be depicted on this map and will include a community protection zone, a restoration zone and a recreation and wilderness zone.

(b) Map – A map entitled the “Three Rivers Challenge Cooperative Stewardship Study Area Map” establishing the Stewardship Area and Eligible Land in which the landscape scale restoration projects of this Act shall be implemented is on file with the Committees on Agriculture and Energy and Natural Resources of the Senate; the Committees on Agriculture and

Resources in the House of Representatives; the office of the Secretary, the office of the Chief of the Forest Service; and the appropriate administrative unit offices of the Forest Service.

## **SECTION 102. IMPLEMENTATION OF STEWARDSHIP AND RESTORATION ON THE THREE RIVERS DISTRICT - KOOTENAI NATIONAL FOREST**

(a) Development of Landscape Scale Restoration Projects. Not later than one year after the effective date of this Act, and annually thereafter, the Secretary shall sign a record of decision and begin implementation of at least one landscape-scale restoration project annually on those eligible lands within the Stewardship Areas identified in Section 101 of this Act. Each landscape scale restoration project will include a mix of vegetative treatments and restoration and will be designed and planned at a landscape scale of between 2,500 and 3,000 acres. In determining priority for such projects the Secretary should consider eligible lands where:

- (1) forests are at high risk from insect epidemics or high severity wildfires; or
- (2) opportunities exist to reduce fire risk in an identified wildland-urban interface.

(b) Landscape scale restoration projects under this section shall be planned and implemented using Stewardship Contracts. This does not preclude the Secretary from using other available authorities for other projects in the Stewardship Areas not conducted pursuant to this Act.

(c) Requirements for landscape restoration projects. The landscape scale restoration projects shall continue to be conducted in accordance with the best available science, and shall continue to account for the needs of winter range and other wildlife needs consistent with existing laws and policies and shall meet the following timber harvest and restoration requirements:

- (1) Vegetation shall be managed through timber harvest, prescribed burning as a secondary option and other silvicultural techniques with the majority of vegetative management designed to mimic mixed severity, natural fires.
- (2) Best management practices shall be implemented to maintain and restore watersheds.
- (3) Wildlife habitat shall be restored and maintained through mechanical treatment and through the use of prescribed burning that mimics natural fire that is allowed to burn beyond harvest units. Nothing in this Act shall preclude short term habitat modification to facilitate long term maintenance and restoration.
- (5) Vegetation management shall include commercial timber harvest and thinning designed to reduce the long term risk and severity of fire and insect infestations, to maintain and restore healthy sustainable forests, to produce revenue to reinvest in fish and wildlife habitat maintenance and restoration, and to maintain current infrastructure of wood products manufacturing facilities that provide economic stability to local communities and preserve or add 50 full-time forest related jobs to the area's economy.

(d) Timing of Implementation –

- (1) Within the Stewardship Areas identified in Section 101, the Secretary shall mechanically treat timber that yields value for meeting the restoration goals of this Act, on a minimum of (i) 6,000 acres of eligible land within two years after the date of

enactment; (ii) 15,000 acres of eligible land within five years after the date of enactment; and (iii) 30,000 acres of eligible land within ten years after the date of enactment.

(2) Upon completion of the environmental analysis in paragraph (e) and the signing of a record of decision that complies with the requirements in paragraph (c), the Secretary shall implement the projects required by this section.

(e) NEPA Documentation –

(1) The Forest Service shall prepare one environmental impact statement pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), for each landscape scale restoration project that shall be implemented in Section 102.

(2) Additional environmental analysis under the National Environmental Policy Act is not required to implement an approved landscape restoration project.

(3) Mediated Appeals –A pilot Mediated Informal Resolution process shall be implemented for the Three Rivers District Cooperative Stewardship Study Area to settle potential appeals and litigation at the administrative level. This special process will codify the existing Informal Resolution discussions in the existing Appeals and Objections regulations found in Forest Service regulations 36 CFR Part 215.17. It is not the intent of this Act to block appeals, objections or litigation. Details of this process are included in the Memorandum of Understanding between the USFS and the Three Rivers Challenge Resource Advisory Council.

### **SECTION 103. FUNDING SOURCES AND AUTHORIZATION OF APPROPRIATIONS**

(a) Stewardship Contract Authority.—In accordance with funds administered under Sec. 332 of PL 107-63, 16 U.S.C. 2104 Note (Revised February 28, 2003 to reflect Sec. 323 of H.J. Res. 2 as enrolled), the Kootenai National Forest shall implement projects covered by Section 102 (a) using Stewardship Contracts. Stewardship contracting authority shall be available for use on the Kootenai National Forest for the duration of this Act. It shall include section xxxx which shall place at least a 40% weight factor for local contractors – defined as Lincoln and Sanders counties - bidding on work within the area defined in Section 101 and the cancellation ceiling barrier shall be removed for Stewardship contracts in this project area.

(b) Cost-Effective Implementation. — Consistent with Section 104(a), the Secretary shall plan and implement projects using the most cost-effective means available.

(1) Reprogramming.—Subject to the relevant reprogramming guidelines of the House and Senate Committees on Appropriations, funds specifically provided to the Forest Service by the Secretary to implement resource management activities according to this Act may be made available.

(2) Unobligated Balances.—Subject to normal reprogramming guidelines, the forest supervisor of the Kootenai National Forest may allocate and use all accounts that contain year-end excess funds and all available excess funds for the administration and management of the Kootenai National Forest to plan and implement projects to meet the goals and objectives of the Proposal.

(3) The Secretary may retain any receipts from implementation of the landscape restoration projects under Title I for the planning and implementation of additional landscape scale restoration projects.

(c) Pursuant to the procedures and criteria established by the Secure Rural Schools and Community Self-determination Act (P.L. 106-393), the Secretary shall establish a

Resource Advisory Committee (RAC) for the Three Rivers District Cooperative Stewardship Study Area within the Kootenai National Forest. The Secretary may use an existing RAC if it is determined to be capable of carrying out the requirements of this subparagraph; and, includes local conservation, recreation and industry representatives from the project area. The RAC shall establish project specific advisory committees, comprised of industry, recreation, and conservation interests, to aid in the location, design, and implementation of the landscape projects required by Section 102. The RAC shall advise the administrative units of the Three Rivers District Cooperative Stewardship Study Area within the Kootenai National Forest on the use and disbursement of excess receipts which result from the completion of the landscape scale restoration projects in this Act.

(d) Overhead.—The Secretary shall ensure that of amounts available to carry out this section not more than XX percent is used or allocated for general administration, planning, or other overhead; and at least XX percent is used to implement projects required by this section.

(e) Authorization of Appropriations.--There are authorized to be appropriated additional sums as may be necessary to fulfill the obligations of this Act.

(f) The Secretary shall retain receipts and fees derived from commercial and recreational activity on the Kootenai National Forest for use on that forest for the purpose of implementing this Title, and for other purposes.

#### **SECTION 104. MONITORING AND REPORTING**

(a) The Secretary shall prepare a report to Congress at five year intervals on the implementation of large landscape projects within the Three Rivers District Cooperative Stewardship Study Area on the Kootenai National Forest. The report will:

(1) assess the effectiveness of stewardship contracting in meeting vegetative management goals and funding restoration goals;

(2) provide information on the number of landscape projects designed and implemented, the cost of such projects, including the costs of planning and environmental analysis; and the number of acres treated and restoration projects accomplished;

(3) evaluate whether the use of stewardship contracting, the participation of the RAC and project specific advisory committees and other public involvement tools have reduced the number of administrative appeals and legal challenges or otherwise impacted the outcome of appeals and litigation;

(4) make recommendations on legislative or administrative actions that might better achieve the goals and purposes of the Three Rivers Challenge Conservation, Restoration, Recreation and Stewardship Act.

(5) Identify additional resources and authorities needed if any, to fully implement the Act.

#### **SECTION 105. TERM OF AUTHORIZATION**

(a) The Secretary shall plan and implement landscape scale restoration projects under this Title until:

(1) the date, no earlier than 10 years after the date of enactment of this Act, on which the Secretary completes a significant amendment or revision of

the land and resource management plans for the Three Rivers District Cooperative Stewardship Study Area within the Kootenai National Forest in accordance with 16 U.S.C. 1604(f)(4); or  
(2) fifteen years after the date of enactment of this Act; and  
(3) Provided that a minimum of 30,000 acres have been treated pursuant to Section 102(d) of this Title and that all contracts begun under authority of this Title may be completed under this Title. The Stewardship Contracting Authority shall be made permanent for this project area.

#### **SECTION 106. RELATIONSHIP TO OTHER LAWS**

Except as provided for in this Act, the Secretary shall manage the Kootenai National Forest – Three Rivers District in accordance with all existing laws and regulations.

### **TITLE II**

#### **SECTION 301. DESIGNATION OF RECREATION AND SCENIC AREAS**

(a) ESTABLISHMENT.—There is hereby established in the Kootenai National Forest, Montana, the Three Rivers District Recreation and Scenic Areas (hereinafter in this Act referred to as the 'recreation and scenic areas').

(1) The protection area shall consist of certain lands in the Kootenai National Forest, Montana – Three Rivers District which comprise approximately xxx acres, as generally depicted on the map entitled 'Three Rivers Challenge Recreation and Wilderness Map', dated xxxx, 2009.

(b) ADMINISTRATION- The Secretary shall administer the recreation and scenic areas in accordance with this section and the laws and regulations generally applicable to the National Forest System including current Forest Plan, and State and Federal fish and wildlife regulations.

(c) LIMITATIONS – Snowmobiles, chainsaws, and games carts may be operated in certain portions of the Northwest Peaks and Mt. Henry Backcountry Areas. All uses in these areas are subject to the local collaborative agreement between the Yaak Valley Forest Council and the Troy and Libby Snowmobile Clubs, dated { }, and as depicted on the “Three Rivers Challenge Recreation and Wilderness Map,” dated xxxx, 2009. It is understood that the snowmobile area is a snowmobile recreation area that shall be maintained as per this legislation. Any wildlife augmentation that is deemed necessary by Montana Department of Fish, Wildlife and Parks and US fish and Game shall be presented to the Community Working Group described in Title II Section 301, 4.

(d) AREAS

**Northwest Peaks Scenic Area** – The boundaries of the Northwest Peaks Scenic Area will be expanded to match the boundaries of the Northwest Peaks Inventoried Roadless Area and is depicted on the “Three Rivers Challenge Recreation and Wilderness Map”.

**Permanent Snowmobile Area** – This area shall be managed for winter motorized use which may include season changes as determined by snow conditions. The use of snowmobiles, shall be the only motorized use within agreed upon portions of this area, as generally described by portions of the North Creek, Hawkins, West Fork, and Davis Creek basins.

**Permanent Non-motorized Area** – In that area of the Scenic Area lying outside of the Snowmobile Area, motorized vehicles of any kind including snowmobiles, personal aircraft, etc. are prohibited year-round, in the area as generally described by the west-facing lands

lying north and west of the Northwest Peaks-to-Davis Peak Divide and the Burke Lake Basin, including the Marmot Mountain basin and Marmot and Cooney Mountains, and the roadless lands of Midge Creek. Rules and regulations set forth in the Kootnai National Forest Plan addressing emergency vehicle use in non-motorized areas shall be adopted for the permanent non-motorized area. Portions of the Rock Candy Trail # 174 (West face only) shall remain snowmobile free.

**Northwest Peaks Quiet Use/Traditional Area** – A portion of the west face of Rock Candy Mountain, in the Northwest Peaks Inventoried Roadless Area, and the forested southeast lobe of the Buckhorn Ridge Inventoried Roadless Area as depicted by the Three Rivers Challenge Recreation and Wilderness Map dated xxxx, 2009 shall be reserved for yearlong non-motorized use, though it is not the intent of this legislation to fine or otherwise punish an inadvertent crossing over these particular boundaries. Should snowmobiling opportunities become available in these two areas, a flexible management system may be proposed in which, should partners in this agreement agree to support temporary snowmobile use in these areas, “replacement” areas will be temporarily closed elsewhere concurrent with that same time period. Such flexible use would need to be determined by consultation with United States Forest Service, United States Fish and Wildlife Service, and State and local agencies and addressed in Memorandum of Understanding.

(a) SPECIFICS

- (1) **Murphy Mountain Backcountry Ski Area** – A portion of the Buckhorn Ridge Inventoried Roadless Area, from Faro Creek southward, but not including Red Top Mountain, shall be managed for year-long nonmotorized use in support of backcountry skiing and snowshoeing opportunities and is depicted on the Three Rivers challenge Recreation and Wilderness Map dated xxx, 2009.
- (2) **Whitetail General Interest Area** – The boundaries of the Whitetail General Interest Area are addressed by the MOU between the Yaak Valley Forest Council and the Troy and Libby Snowmobile Clubs and depicted on the Three Rivers Challenge Recreation and Wilderness Map dated xxx 2009.
- (3) **Mount Henry Backcountry Area** – The boundaries of the Mount Henry Backcountry Area include the Mount Henry Inventoried Roadless Area and are depicted on the Three Rivers Challenge Recreation and Wilderness Map dated sxxxx 2009.
- (4) **Mount Henry Snowmobile Area** – The boundaries of the Mount Henry Snowmobile Area shall be managed for winter motorized use and may include season changes as determined by snow conditions, include a portion of the Mount Henry Inventoried Roadless Area and are depicted on the Three Rivers Challenge Recreation and Wilderness Map dated xxx, 2009.
- (5) **Roderick Backcountry Area** – The boundaries of the Roderick Backcountry Area include a permanent non-motorized region adjacent to the north boundary of Roderick Mountain Wilderness Area as depicted on the Three Rivers Challenge Recreation and Wilderness Map dated xxx, 2009. Game carts are allowed in this area.
- (6) **Community Working Group** – There shall be established a ten-year working group to address and work toward presenting creative potential alternatives with regard to resolution of local public land use conflicts with regards to motorized and non-

motorized recreation. This group shall be called the Lincoln County Recreation Working Group. Facilitation of this group shall include local, regional and national stakeholders as well as scientists and professional mediators. No guarantee is made that the issues will be resolved as a result of these community discussions. No resolution maintains the non-motorized and motorized recreation designations created by this Act.

- (7) **All Terrain Vehicle (ATV) Route Study** – There is authorized a study for local collaboration in the development and implementation of non-controversial motorized recreation (as well as non-motorized) routes in the county and located in the Kootenai National Forest and other lands within the county. The findings of such a study may involve private land, or public land or both, but this Act does not support any findings that propose off-road vehicle use in any of the inventoried roadless lands on the Kootenai National Forest.

## **TITLE II**

### **SECTION 201. DESIGNATION OF WILDERNESS AREA**

(a) **DESIGNATION** – In furtherance of the purposes of the Wilderness Act of 1964, the following lands in the State of Montana are designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) **RODERICK WILDERNESS**- Certain land in the Kootenai National Forest, comprising approximately 30,000 acres, as generally depicted on the map entitled “Three Rivers Challenge Recreation and Wilderness Map” and dated xxxx 2009, which shall be known as the “Roderick Wilderness Area.” Roderick Wilderness consists of inventoried roadless land within the Roderick Mountain Roadless Area but which specifically excludes the Seventeen Mile Creek road (and preserves its existing usages) lying between those Roderick Roadless area and Saddle Roadless Area. A permanent non-motorized regional adjacent to the north boundary of Roderick Mountain, as depicted on the “Three Rivers Challenge Recreation and Wilderness Map” dated xxxx 2009. Game carts are allowed in this area.

### **SECTION 202. ADMINISTRATION OF WILDERNESS AREAS**

(a) **Management**- Subject to valid existing rights, each area designated as wilderness by section 3 shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that--

- (1) any reference in that Act to the effective date shall be considered to be a reference to the date of enactment of this Act; and
- (2) any reference in that Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary that has jurisdiction over the wilderness.

(b) **Map and Description**-

(1) **IN GENERAL**- As soon as practicable after the date of enactment of this Act, the Secretary shall file the map and the legal description of the wilderness area designated by section 3 with--

- (A) the Committee on Resources of the House of Representatives; and
- (B) the Committee on Energy and Natural Resources of the Senate.

(2) **FORCE OF LAW**- A map and legal description filed under paragraph (1) shall have the same force and effect as if included in this Act.

(3) **PUBLIC AVAILABILITY**- Each map and legal description filed under

paragraph (1) shall be filed and made available for public inspection in the appropriate office of the Secretary.

(c) Incorporation of Acquired Land and Interests- Any land within the boundary of a wilderness area designated by this Act that is acquired by the Federal Government shall--

(1) become part of the wilderness area in which the land is located; and  
(2) be managed in accordance with this Act, the Wilderness Act (16 U.S.C. 1131 et seq.), and any other applicable law.

(d) Withdrawal- Subject to valid rights in existence on the date of enactment of this Act, the Federal land designated as wilderness by this Act is withdrawn from all forms of--

(1) entry, appropriation, or disposal under the public land laws;  
(2) location, entry, and patent under the mining laws; and  
(3) disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

(e) Fire, Insect, and Disease Management Activities-

(1) IN GENERAL- The Secretary may take such measures in the wilderness areas designated by this Act as are necessary for the control and prevention of fire, insects, and diseases, in accordance with--

(A) section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1)); and

(B) House Report No. 98-40 of the 98th Congress.

(2) REVIEW- Not later than 1 year after the date of enactment of this Act, the Secretary shall review existing policies applicable to the wilderness areas designated by this Act to ensure that authorized approval procedures for any fire management measures allow a timely and efficient response to fire emergencies in the wilderness areas.

(f) Access to Private Property- The Secretary shall provide any owner of private property within the boundary of a wilderness area designated by this Act adequate access to such property to ensure the reasonable use and enjoyment of the property by the owner.

(g) Snow Sensors and Stream Gauges- If the Secretary determines that hydrologic, meteorological, or climatologically instrumentation is appropriate to further the scientific, educational, and conservation purposes of the wilderness areas designated by this Act, nothing in this Act prevents the installation and maintenance of the instrumentation within the wilderness areas.

(h) Military Activities- Nothing in this Act precludes low-level overflights of military aircraft, the designation of new units of special airspace, or the use or establishment of military flight training routes over wilderness areas designated by this Act.

(i) Livestock- Grazing of livestock and the maintenance of existing facilities related to grazing in wilderness areas designated by this Act, where established before the date of enactment of this Act, shall be permitted to continue in accordance with--

(1) section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)); and

(2) the guidelines set forth in Appendix A of the report of the Committee on Interior and Insular Affairs of the House of Representatives accompanying H.R. 2570 of the 101st Congress (H. Rept. 101-405).

(j) Fish and Wildlife Management-

(1) IN GENERAL- In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), the Secretary may carry out management activities to maintain or restore fish and wildlife populations and fish and wildlife habitats in wilderness areas designated by this Act if such activities are--

- (A) consistent with applicable wilderness management plans; and
- (B) carried out in accordance with applicable guidelines and policies.
- (2) STATE JURISDICTION- Nothing in this Act affects the jurisdiction of the State of Montana with respect to fish and wildlife on the public land located in the State.
- (k) Adjacent Management-
  - (1) IN GENERAL- Nothing in section 3 creates protective perimeter or buffer zones around any wilderness area designated by section 3.
  - (2) NONWILDERNESS ACTIVITIES- The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness area designated by section 3 shall not preclude the conduct of those activities or uses outside the boundary of the wilderness area.