

tative programs in the Reserve, including the possible use of existing facilities such as Whitesbog, Batsto, Double Trouble State Park and Stockton State College.

(C) The use and enhancement of existing fire towers in the Reserve to serve as observation platforms.

(D) The appropriate role for departments and agencies of the State of New Jersey and the Federal Government in implementing the program.

### (3) Study of Development Credit Bank and Development Credit System

The Secretary is authorized and directed to study the State of New Jersey Pinelands Development Credit Bank and Pinelands Development Credit System, and to submit to the Congress within 9 months after October 13, 1988, such recommendations as the Secretary determines appropriate for improvements of the operation of the State Pinelands Development Credit Bank and the overall Pinelands Development Credit Program.

### (4) Study of Municipal Council

The Secretary shall study the Pinelands Municipal Council, and submit to the Congress within 9 months after October 13, 1988, such recommendations as the Secretary determines appropriate for improvements of the operation of the council.

### (5) Contracts and agreements

The Secretary may enter into such contracts and agreements with the State of New Jersey and other public and private entities as may be necessary and appropriate to carry out the authorities and responsibilities of the Secretary under this subsection. For purposes of this subsection, there is authorized to be appropriated not more than \$500,000 to prepare and complete the study pursuant to paragraph (1) and \$3,000,000 to implement the recommendations of such study upon its approval by the Congress, the Federal share of which may not exceed 75 percent of the total cost.

(Pub. L. 95-625, title V, §502, Nov. 10, 1978, 92 Stat. 3492; Pub. L. 100-486, Oct. 13, 1988, 102 Stat. 2429.)

#### REFERENCES IN TEXT

The Clean Water Act, referred to in subsec. (f)(9), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, §2, Oct. 18, 1972, 86 Stat. 816, also known as the Federal Water Pollution Control Act, which is classified generally to chapter 26 (§1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Safe Drinking Water Act, referred to in subsec. (f)(9), is title XIV of act July 1, 1944, as added Dec. 16, 1974, Pub. L. 93-523, §2(a), 88 Stat. 1660, as amended, which is classified generally to subchapter XII (§300f et seq.) of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

The Land and Water Conservation Fund Act, referred to in subsec. (h)(1)(B), probably means the Land and Water Conservation Fund Act of 1965, Pub. L. 88-578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§460f-4 et seq.) of subchapter LXIX of chapter 1 of this title. For complete classifica-

tion of this Act to the Code, see Short Title note set out under section 460f-4 of this title and Tables.

The Outer Continental Shelf Lands Act, as amended, referred to in subsec. (k)(1), is act Aug. 7, 1953, ch. 345, 67 Stat. 462, as amended, which is classified generally to subchapter III (§1331 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1331 of Title 43 and Tables.

Enactment of this Act, referred to in subsec. (k)(2), probably means date of enactment of Pub. L. 100-486, which enacted subsec. (k)(2) of this section and which was approved Oct. 13, 1988.

#### AMENDMENTS

1988—Subsec. (k). Pub. L. 100-486, §2, designated existing provisions as par. (1) and added par. (2).

Subsec. (l). Pub. L. 100-486, §1, added subsec. (l).

### § 471j. 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 approximately 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) of this section 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 [16 U.S.C. 1539(a)] (based upon a multispecies 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 [42 U.S.C. 4321 et seq.]; and

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

**(c) Acquisition**

Notwithstanding any other provision of law, the amount paid by the United States to acquire identified lands and interests in lands referred to in subsection (a) of this section may differ from the value contained in the appraisal required by subsection (b)(5) of this section 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 November 14, 1997, 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 [16 U.S.C. 1531 et seq.] and any other species used to develop the habitat conservation plan (hereinafter "HCP") and the section 10(a) [16 U.S.C. 1539(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 [16 U.S.C. 1539(a)] for the transaction authorized by subsection (a) of this section, and the permit is not issued, then the United States 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 multispecies 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.

**(g) Out-year budget limitations**

The following funding limitations and parameters shall apply to the Headwaters Forest acquired under subsection (a) of this section—

(1) At least 50 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) of this section 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 group 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 nonvoting, *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 California (and in the case that the authority provided in subsection (h) of this section 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 Appropriations 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 [42 U.S.C. 4321 et seq.] 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 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.

(Pub. L. 105-83, title V, §501, Nov. 14, 1997, 111 Stat. 1610.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 105-83, Nov. 14, 1997, 111 Stat. 1543, known as the Department of the Interior and Related Agencies Appropriations Act, 1998. For complete classification of this Act to the Code, see Tables.

The National Environmental Policy Act of 1969, referred to in subsecs. (b)(7) and (i)(3), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Endangered Species Act, referred to in subsec. (d)(1), probably means the Endangered Species Act of

1973, Pub. L. 93-205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

#### CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

#### TIMING OF ACQUISITIONS

Pub. L. 105-83, title V, §504, Nov. 14, 1997, 111 Stat. 1617, provided that: "The acquisitions authorized by sections 501 [16 U.S.C. 471j] and 502 [111 Stat. 1614] of this title may not occur prior to the earlier of: (1) 180 days after enactment of this Act [Nov. 14, 1997]; or (2) enactment of separate authorizing legislation that modifies section 501, 502, or 503 [111 Stat. 1616] 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 [now Committee on Natural 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 enactment of this Act that the appraisals required in subsections [sic] 501(b)(5) and 502(b)(2) are not provided to the Committee on Resources [now Committee on Natural 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."

### § 472. Laws affecting national forest lands

The Secretary of the Department of Agriculture shall execute or cause to be executed all laws affecting public lands reserved under the provisions of section 471<sup>1</sup> of this title, or sections supplemental to and amendatory thereof, after such lands have been so reserved, excepting such laws as affect the surveying, prospecting, locating, appropriating, entering, relinquishing, reconveying, certifying, or patenting of any of such lands.

(Feb. 1, 1905, ch. 288, §1, 33 Stat. 628.)

#### REFERENCES IN TEXT

Section 471 of this title, referred to in text, was in the original a reference to section 24 of act Mar. 3, 1891, ch. 561, 26 Stat. 1103, and was repealed by Pub. L. 94-579, title VII, §704(a), Oct. 21, 1976, 90 Stat. 2792.

#### CODIFICATION

Words "subject to the provisions for national forests established under subdivision (b) of section 471 of this title," which had been inserted by the original codifiers of the 1926 ed. of the Code, have been omitted because of the repeal of section 471 of this title by Pub. L. 94-579.

### § 472a. Timber sales on National Forest System lands

#### (a) Authorization; rules and regulations; appraised value as minimum sale price

For the purpose of achieving the policies set forth in the Multiple-Use Sustained-Yield Act of

1960 (74 Stat. 215; 16 U.S.C. 528-531) and the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476) [16 U.S.C. 1600 et seq.], the Secretary of Agriculture, under such rules and regulations as he may prescribe, may sell, at not less than appraised value, trees, portions of trees, or forest products located on National Forest System lands.

#### (b) Designation on map; prospectus

All advertised timber sales shall be designated on maps, and a prospectus shall be available to the public and interested potential bidders.

#### (c) Terms and conditions of contract

The length and other terms of the contract shall be designed to promote orderly harvesting consistent with the principles set out in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended [16 U.S.C. 1604]. Unless there is a finding by the Secretary of Agriculture that better utilization of the various forest resources (consistent with the provisions of the Multiple-Use Sustained-Yield Act of 1960 [16 U.S.C. 528-531]) will result, sales contracts shall be for a period not to exceed ten years: *Provided*, That such period may be adjusted at the discretion of the Secretary to provide additional time due to time delays caused by an act of an agent of the United States or by other circumstances beyond the control of the purchaser. The Secretary shall require the purchaser to file as soon as practicable after execution of a contract for any advertised sale with a term of two years or more, a plan of operation, which shall be subject to concurrence by the Secretary. The Secretary shall not extend any contract period with an original term of two years or more unless he finds (A) that the purchaser has diligently performed in accordance with an approved plan of operation or (B) that the substantial overriding public interest justifies the extension.

#### (d) Advertisement of sales; exceptions

The Secretary of Agriculture shall advertise all sales unless he determines that extraordinary conditions exist, as defined by regulation, or that the appraised value of the sale is less than \$10,000. If, upon proper offering, no satisfactory bid is received for a sale, or the bidder fails to complete the purchase, the sale may be offered and sold without further advertisement.

#### (e) Bidding methods; purposes; oral auction procedures; monitoring and enforcement for prevention of collusive practices

(1) In the sale of trees, portions of trees, or forest products from National Forest System lands (hereinafter referred to in this subsection as "national forest materials"), the Secretary of Agriculture shall select the bidding method or methods which—

(A) insure open and fair competition;

(B) insure that the Federal Government receive not less than the appraised value as required by subsection (a) of this section;

(C) consider the economic stability of communities whose economies are dependent on such national forest materials, or achieve such other objectives as the Secretary deems necessary; and

<sup>1</sup> See References in Text note below.