

115TH CONGRESS
1ST SESSION

S. 605

To amend the Forest and Rangeland Renewable Resources Planning Act of 1974 and the Federal Land Policy and Management Act of 1976 to discourage litigation against the Forest Service and the Bureau of Land Management relating to land management projects.

IN THE SENATE OF THE UNITED STATES

MARCH 9, 2017

Mr. DAINES (for himself and Mr. TESTER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Forest and Rangeland Renewable Resources Planning Act of 1974 and the Federal Land Policy and Management Act of 1976 to discourage litigation against the Forest Service and the Bureau of Land Management relating to land management projects.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Litigation Relief for
5 Forest Management Projects Act”.

1 **SEC. 2. FOREST AND RANGELAND RENEWABLE RESOURCES**
2 **PLANNING ACT OF 1974.**

3 (a) CONSULTATION REGARDING LAND MANAGEMENT
4 PLANS.—Section 6(d) of the Forest and Rangeland Re-
5 newable Resources Planning Act of 1974 (16 U.S.C.
6 1604(d)) is amended—

7 (1) by striking “(d) The Secretary” and insert-
8 ing the following:

9 “(d) PUBLIC PARTICIPATION AND CONSULTATION.—

10 “(1) IN GENERAL.—The Secretary”; and

11 (2) by adding at the end the following:

12 “(2) NO ADDITIONAL CONSULTATION RE-
13 QUIRED AFTER APPROVAL OF LAND MANAGEMENT
14 PLANS.—

15 “(A) IN GENERAL.—Notwithstanding any
16 other provision of law, the Secretary shall not
17 be required to engage in consultation under this
18 subsection or any other provision of law (includ-
19 ing section 7 of Public Law 93–205 (16 U.S.C.
20 1536) and section 402.16 of title 50, Code of
21 Federal Regulations (or a successor regulation))
22 with respect to—

23 “(i) the listing of a species as threat-
24 ened or endangered, or a designation of
25 critical habitat pursuant to Public Law
26 93–205 (16 U.S.C. 1531 et seq.), if a land

1 management plan has been adopted by the
2 Secretary as of the date of listing or des-
3 ignation; or

4 “(ii) any provision of a land manage-
5 ment plan adopted as described in clause
6 (i).

7 “(B) EFFECT OF PARAGRAPH.—Nothing
8 in this paragraph affects any applicable require-
9 ment of the Secretary to consult with the head
10 of any other Federal department or agency—

11 “(i) regarding any project to imple-
12 ment a land management plan, including a
13 project carried out, or proposed to be car-
14 ried out, in an area designated as critical
15 habitat pursuant to Public Law 93–205
16 (16 U.S.C. 1531 et seq.); or

17 “(ii) with respect to the development
18 of a modification to a land management
19 plan that would result in a significant
20 change (within the meaning of subsection
21 (f)(4)) in the land management plan.”.

22 (b) DEFINITION OF SECRETARY; CONFORMING
23 AMENDMENTS.—

24 (1) DEFINITION OF SECRETARY.—Section 3(a)
25 of the Forest and Rangeland Renewable Resources

1 Planning Act of 1974 (16 U.S.C. 1601(a)) is
 2 amended, in the first sentence of the matter pre-
 3 ceding paragraph (1), by inserting “(referred to in
 4 this Act as the ‘Secretary’)” after “Secretary of Ag-
 5 riculture”.

6 (2) CONFORMING AMENDMENTS.—The Forest
 7 and Rangeland Renewable Resources Planning Act
 8 of 1974 (16 U.S.C. 1600 et seq.) is amended, in sec-
 9 tions 4 through 9, 12, 13, and 15, by striking “Sec-
 10 retary of Agriculture” each place it appears and in-
 11 serting “Secretary”.

12 **SEC. 3. FEDERAL LAND POLICY AND MANAGEMENT ACT OF**
 13 **1976.**

14 Section 202(f) of the Federal Land Policy and Man-
 15 agement Act of 1976 (43 U.S.C. 1712(f)) is amended—

16 (1) by striking “(f) The Secretary” and insert-
 17 ing the following:

18 “(f) PUBLIC INVOLVEMENT.—

19 “(1) IN GENERAL.—The Secretary”; and

20 (2) by adding at the end the following:

21 “(2) NO ADDITIONAL CONSULTATION RE-
 22 QUIRED AFTER APPROVAL OF LAND USE PLANS.—

23 “(A) IN GENERAL.—Notwithstanding any
 24 other provision of law, the Secretary shall not
 25 be required to engage in consultation under this

1 subsection or any other provision of law (includ-
2 ing section 7 of Public Law 93–205 (16 U.S.C.
3 1536) and section 402.16 of title 50, Code of
4 Federal Regulations (or a successor regula-
5 tion)), with respect to—

6 “(i) the listing of a species as threat-
7 ened or endangered, or a designation of
8 critical habitat, pursuant to Public Law
9 93–205 (16 U.S.C. 1531 et seq.), if a land
10 use plan has been adopted by the Sec-
11 retary as of the date of listing or designa-
12 tion; or

13 “(ii) any provision of a land use plan
14 adopted as described in clause (i).

15 “(B) EFFECT OF PARAGRAPH.—

16 “(i) DEFINITION OF SIGNIFICANT
17 CHANGE.—In this subparagraph, the term
18 ‘significant change’ means a significant
19 change within the meaning of section
20 219.13(b)(3) of title 36, Code of Federal
21 Regulations (as in effect on the date of en-
22 actment of this subparagraph), except
23 that—

24 “(I) any reference contained in
25 that section to a land management

1 plan shall be deemed to be a reference
2 to a land use plan;

3 “(II) any reference contained in
4 that section to the Forest Service
5 shall be deemed to be a reference to
6 the Bureau of Land Management; and

7 “(III) any reference contained in
8 that section to the National Forest
9 Management Act of 1976 (Public Law
10 94–588; 90 Stat. 2949) shall be
11 deemed to be a reference to this Act.

12 “(ii) EFFECT.—Nothing in this para-
13 graph affects any applicable requirement of
14 the Secretary to consult with the head of
15 any other Federal department or agency—

16 “(I) regarding a project carried
17 out, or proposed to be carried out,
18 with respect to a species listed as
19 threatened or endangered, or in an
20 area designated as critical habitat,
21 pursuant to Public Law 93–205 (16
22 U.S.C. 1531 et seq.); or

23 “(II) with respect to the develop-
24 ment of a new land use plan or the re-

- 1 vision of or other significant change to
- 2 an existing land use plan.”.

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