MARIPOSA COUNTY
BOARD OF SUPERVISORS

DEPARTMENT: Administration
BY: Rick Benson
PHONE: 966-3222

RECOMMENDED ACTION AND JUSTIFICATION:
Approve Mariposa County joining the Tuolumne County Resource Advisory Council (RAC) pertaining to the Secure Rural Schools and Community Self-Determination Act.

Please see the attached staff report for additional information.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Financial Impact? ( ) Yes (X) No
Current FY Cost: $

Budgeted In Current FY? ( ) Yes ( ) No ( ) Partially Funded
Amount in Budget: $

Additional Funding Needed: $

Source:

Internal Transfer

Unanticipated Revenue

Transfer Between Funds

Contingency

( ) General ( ) Other

Annual Recurring Cost: $

List Attachments, number pages consecutively

Staff Report
Spreadsheet
SR2008

CLERK’S USE ONLY:
Res. No.: 09-12
Ord. No.: ______
Vote – Ayes: 5 Noes: ______
Absent: ______

Approved

Minute Order Attached ( ) No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.
Date:

Attest: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California

By: Deputy

COUNTY ADMINISTRATIVE OFFICER:

Requested Action Recommended
No Opinion

Comments:

CAO:

Revised Dec. 2002
TO: RICHARD J. BENSON, CAO
FROM: MARGIE WILLIAMS, Clerk of the Board

SUBJECT: Approve Mariposa County Joining the Tuolumne County Resource Advisory Council (RAC) Pertaining to the Secure Rural Schools and Community Self-Determination Act

RESOLUTION 09-12

THE BOARD OF SUPERVISORS OF MARIPosa COUNTY, CALIFORNIA

ADOPTED THIS Order on January 13, 2009

ACTION AND VOTE:

Approve Mariposa County Joining the Tuolumne County Resource Advisory Council (RAC) Pertaining to the Secure Rural Schools and Community Self-Determination Act (County Administrative Officer/Personnel/Risk Manager)

BOARD ACTION: Discussion was held with Rick Benson and Mary Hodson, Deputy County Administrative Officer, relative to the recommendation and the appointment process.

Input from the public was provided by the following:

Mike McCready stated he agreed with the recommendation that a new RAC not be created. However, since the County will be a minority member of the Tuolumne County RAC, he agrees with the recommendation that a side letter be developed calling for Mariposa County’s portion of the contribution of funding to be used to the benefit of Mariposa County.

(M)Turpin, (S)Cann, Res. 09-12 was adopted approving joining the Tuolumne County RAC, with a side letter agreement to be developed for Mariposa County’s portion of the contribution of funding to be used for the general benefit of Mariposa County. Further discussion was held. Ayes: Unanimous.

Cc: Mary Hodson, Deputy CAO
File
January 13, 2009

To: Rick Benson, County Administrative Officer

From: Mary Hodson, Deputy CAO

Subject: SR2008 & Resource Advisory Council

Recommendation:
Approve Mariposa County joining the Tuolumne County Resource Advisory Council (RAC) pertaining to the Secure Rural Schools and Community Self-Determination Act.

Background:
In 1908 Congress enacted a law that requires 25-percent of the revenue derived from National Forest lands be paid to the States for use by counties in which those lands are situated for the benefit of public schools and roads. These revenues are commonly referred to as Forest Reserve Funds. With the reduction in timber harvest over the last ten years, overall payments were highly variable since they were tied to fluctuating and controversial timber sales. The Secure Rural Schools and Community Self-Determination Act of 2000 (HR 2389) was enacted to provide stable funding for schools and roads through the year 2006 and to provide an opportunity to fund forest habitat improvement projects and/or certain forest related expenses. The bill was extended one more year with Public Law 110-28, which extended the funding to 2007.

HR 2389 allowed counties to opt for a Safety Net Payment – a dependable, predictable payment (full payment) based on the average of the highest three payments received between the years 1986 and 1999, or to receive their historical twenty-five-percent payment. The twenty-five percent payment in past years had been approximately $199,000. Of this amount half went to local schools and half to the County Road Fund. In Fiscal Year 2000-01, the County Road Fund received $82,463 for Forest Reserve receipts.

On March 6, 2001, the Board of Supervisors adopted several Resolutions pertaining to the Secure Rural Schools and Community Self-Determination Act of 2000 one of which was to receive the Safety Net Payment or full amount. By electing to receive the Safety Net Payment, the Board of Supervisors increased the amount of funding for local schools, the County Road Fund, and local forest related projects. In Fiscal Year 2007-08, Mariposa County received $649,447, of which local schools and the County
Road Fund each received $276,015. The remaining fifteen-percent -- $97,417, was deposited into the Forest Reserve Fund for use on local forest projects.

The reauthorization of the Secure Rural Schools and Community Self-Determination Act of 2000 was included in the economic stimulus package that was approved by Congress and signed into law (P.L. 110-343) by the President on October 3, 2008, (SR2008). SR2008 will provide declining payments to counties with federal forest lands over four federal fiscal years (FFY) 2008 through 2011. FFY are from October 1st through September 30th. Attached is the section of P.L. 110-343 that pertains to SR2008.

SR2008 varies significantly from HR2389, in that counties will be receiving declining payments (attached is spreadsheet detailing the approximate payments), and opting to receive the safety net payment is irreversible for the life of the legislation. Most importantly, SR2008 now requires that of the 20 to 15-percent set aside for forest related projects, that these project funds be split between Title II and Title III projects with no more than 7-percent allocated to Title III projects.

On November 10, 2008, the Board of Supervisors adopted Resolution 08-536 opting to receive the full safety net payment and allocating 8-percent to Title II projects and 7-percent to Title III projects. Attached is a spreadsheet with the approximate amount of funding that Mariposa County will receive during the next four years.

Title II projects require the formation of a RAC which consists of 15 members appointed by the Secretary of Agriculture (upon the recommendation of the respective Board of Supervisors) and is governed by the Meyers-Milias-Brown Act. All Title II projects must be recommended by the RAC and approved by the Secretary of Agriculture. Approved uses of Title II project funds may be found under Section 202 of SR2008.

Title III projects are approved by the Board of Supervisors and now consist of three approved categories: (1) carry out programs under the Firewise Communities program through education and assistance to homeowners regarding ways to reduce risks to wildfire; (2) reimburse counties for the cost of search, rescue, and emergency services including firefighting, on federal lands; (3) develop community wildfire protection plans in coordination with the Forest Service and/or the Bureau of Land Management (BLM). Title III projects require annual certification by counties that their Title III projects are in compliance with the statutory requirements. Additionally, all project funds must be obligated by September 30, 2012, or the funds are returned to the United States Treasury.

Discussion:

Based on Resolution 08-536, Mariposa County will have approximately $158,395 during the four-year period to spend on Title II projects. The funding does not have to be spent during the fiscal year that it is collected, but can be accumulated over the
four-years. The funding must be obligated by September 30, 2012, or it is returned to the United States Treasury.

A RAC consists of 15 members representing 3 categories: (A) 5 persons representing (i) organized labor or non-timber forest product harvester groups, (ii) developed outdoor recreation, off highway vehicle users, or commercial recreation activities, (iii) energy and mineral development, or commercial or recreational fishing interests, (iv) commercial timber industry, (v) hold Federal grazing or other land use permits, or represent non-industrial private forest land owners. (B) 5 persons representing (i) nationally recognized environmental organizations, (ii) locally recognized environmental organizations, (iii) dispersed recreational activities, (iv) archaeological and historical interests, or (v) nationally or regionally recognized wild horse or burro interest groups, wildlife or hunting organizations, or watershed organizations. (C) 5 persons representing (i) State elected office, (ii) county or local elected office, (iii) represent American Indian tribes within in area, (iv) school official or teacher, (v) represent the affected public at large.

As mentioned previously, the appointments to the RAC must be approved by the Secretary of Agriculture and each RAC must be chartered. Due to the relatively small amount of funding available for Title II projects and the considerable amount of staff time required to form and manage a RAC, staff considered the possibility of joining an existing RAC. The Forest Service was contacted about this possibility and agreed that Mariposa County could join an existing RAC. Both Tuolumne and Madera County have existing RACs.

Because Mariposa County is already involved in the Southwest Interface Project (SWIFT) with Tuolumne County, staff determined that this would be a logical and practical RAC to join. To date there has only been positive feedback from both Tuolumne County staff and the existing RAC about the possibility of joining the two counties. Currently there are two vacancies on the Tuolumne RAC – a ‘full’ member from Group B and a ‘replacement’ member from Group C. The difference between a ‘full’ member and a ‘replacement’ member is that full members get to vote to determine the projects which will be recommended to the Forest Supervisor who makes the decision on the behalf of the Secretary of Agriculture on projects to be funded. Replacement members get to participate fully in all other aspects of the RAC – discussion, questions, and ‘dot votes’ which narrow the number of projects down to those which will be voted on.

In order to move ahead to fill the Tuolumne RAC, Mariposa County needs to indicate its intent to join Tuolumne and to fill either one or both of the existing vacancies. It is the Forest Supervisor’s responsibility to outreach for the new members and recommend selections to the Secretary of Agriculture for ‘vetting.’ Tuolumne County RAC would then be re-chartered as the Tuolumne-Mariposa RAC.

There is no formal process or required Resolution for Mariposa County to join the Tuolumne RAC, other than both counties and the RAC must be in favor of the action. There is also no requirement on how much money must be spent in each county. It is
possible that a good faith agreement could be established as an operating guideline within a ‘conjoined’ RAC.

If the Board of Supervisors is in favor of joining the Tuolumne RAC, then direction should be given for staff to contact Ann Denton, District Ranger for Stanislaus Forest with Mariposa County’s interest in filling one or both of the existing vacancies. Staff will then solicit recommendations from the Board for possible candidates and an agenda item will be prepared requesting approval of the candidates. This information will then be forwarded to the Forest Supervisor for their approval.

If the Board of Supervisors is not interested in joining the Tuolumne RAC, then direction should be given for staff to convey this information to Ann Denton, District Range for Stanislaus Forest so that the outreach process can be started to fill the vacancies. Direction should also be given for staff to begin the process of forming our own RAC.

mbh
Attachments
Allocation of Safety Net Payments

85% to Title I with the remaining 15% to Title II and Title III projects:

<table>
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<tr>
<th>Year</th>
<th>Safety-Net Payment</th>
<th>85% to Title I</th>
<th>Title I Split Between Schools Roads</th>
<th>8% to Title II</th>
<th>7% to Title III</th>
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</table>
TITLE I--SECURE PAYMENTS FOR STATES AND COUNTIES CONTAINING FEDERAL LAND

SEC. 101. SECURE PAYMENTS FOR STATES CONTAINING FEDERAL LAND.

(a) State Payment- For each of fiscal years 2008 through 2011, the Secretary of Agriculture shall calculate for each eligible State an amount equal to the sum of the products obtained by multiplying--

'(1) the adjusted share for each eligible county within the eligible State, by
'(2) the full funding amount for the fiscal year.

(b) County Payment- For each of fiscal years 2008 through 2011, the Secretary of the Interior shall calculate for each eligible county that received a 50-percent payment during the eligibility period an amount equal to the product obtained by multiplying--

'(1) the 50-percent adjusted share for the eligible county, by
'(2) the full funding amount for the fiscal year.

SEC. 102. PAYMENTS TO STATES AND COUNTIES.

(a) Payment Amounts- Except as provided in section 103, the Secretary of the Treasury shall pay to--

'(1) a State or territory of the United States an amount equal to the sum of the amounts elected under subsection (b) by each county within the State or territory for--

'(A) if the county is eligible for the 25-percent payment, the share of the 25-percent payment; or
'(B) the share of the State payment of the eligible county, and

'(2) a county an amount equal to the amount elected under subsection (b) by each county for--

'(A) if the county is eligible for the 50-percent payment, the 50-percent payment; or
'(B) the county payment for the eligible county.

(b) Election To Receive Payment Amounts-

'(1) ELECTION; SUBMISSION OF RESULTS-

'(A) IN GENERAL- The election to receive a share of the State payment, the county payment, a share of the State payment and the county payment, a share of the 25-percent payment, the 50-percent payment, or a share of the 25-percent payment and the 50-percent payment, as applicable, shall be made at the discretion of each affected county by August 1, 2008 (or as soon thereafter as the Secretary concerned determines is practicable), and August 1 of each second fiscal year thereafter, in accordance with paragraph (2), and transmitted to the Secretary concerned by the Governor of each eligible State.

'(B) FAILURE TO TRANSMIT- If an election for an affected county is not transmitted to the Secretary concerned by the date specified under subparagraph (A), the affected county shall be considered to have elected to receive a share of the State payment, the county payment, or a share of the State payment and the county payment, as applicable.

'(2) DURATION OF ELECTION-

'(A) IN GENERAL- A county election to receive a share of the 25-percent payment or 50-percent payment, as applicable, shall be effective for 2 fiscal years.

'(B) FULL FUNDING AMOUNT- If a county elects to receive a share of the State payment or the county payment, the election shall be effective for all subsequent fiscal years through fiscal year 2011.

'(3) SOURCE OF PAYMENT AMOUNTS- The payment to an eligible State or eligible county under this section for a fiscal year shall be derived from--
'(A) any amounts that are appropriated to carry out this Act;
'(B) any revenues, fees, penalties, or miscellaneous receipts, exclusive of
deposits to any relevant trust fund, special account, or permanent operating
funds, received by the Federal Government from activities by the Bureau of
Land Management or the Forest Service on the applicable Federal land; and
'(C) to the extent of any shortfall, out of any amounts in the Treasury of the
United States not otherwise appropriated.

'(c) Distribution and Expenditure of Payments:
'(1) DISTRIBUTION METHOD- A State that receives a payment under
subsection (a) for Federal land described in section 3(7)(A) shall distribute the
appropriate payment amount among the appropriate counties in the State in
accordance with--
'(A) the Act of May 23, 1908 (16 U.S.C. 500); and

'(2) EXPENDITURE PURPOSES- Subject to subsection (d), payments received by
a State under subsection (a) and distributed to counties in accordance with
paragraph (1) shall be expended as required by the laws referred to in paragraph (1).

'(d) Expenditure Rules for Eligible Counties-
'(1) ALLOCATIONS:
'(A) USE OF PORTION IN SAME MANNER AS 25-PERCENT
PAYMENT OR 50-PERCENT PAYMENT, AS APPLICABLE- Except
as provided in paragraph (3)(B), if an eligible county elects to receive its
share of the State payment or the county payment, not less than 80 percent,
but not more than 85 percent, of the funds shall be expended in the same
manner in which the 25-percent payments or 50-percent payment, as
applicable, are required to be expended.

'(B) ELECTION AS TO USE OF BALANCE- Except as provided in
subparagraph (C), an eligible county shall elect to do 1 or more of the
following with the balance of any funds not expended pursuant to
subparagraph (A):

'(i) Reserve any portion of the balance for projects in accordance
with title II.

'(ii) Reserve not more than 7 percent of the total share for the
eligible county of the State payment or the county payment for
projects in accordance with title III.

'(iii) Return the portion of the balance not reserved under clauses
(i) and (ii) to the Treasury of the United States.

'(C) COUNTIES WITH MODEST DISTRIBUTIONS- In the case of
each eligible county to which more than $100,000, but less than $350,000, is
distributed for any fiscal year pursuant to either or both of paragraphs
(1)(B) and (2)(B) of subsection (a), the eligible county, with respect to the
balance of any funds not expended pursuant to subparagraph (A) for that
fiscal year, shall--

'(i) reserve any portion of the balance for--

'(I) carrying out projects under title II;

'(II) carrying out projects under title III; or

'(III) a combination of the purposes described in
subclauses (I) and (II); or

'(ii) return the portion of the balance not reserved under clause (i)
to the Treasury of the United States.

'(2) DISTRIBUTION OF FUNDS.
(A) IN GENERAL- Funds reserved by an eligible county under subparagraph (B)(i) or (C)(i) of paragraph (1) for carrying out projects under title II shall be deposited in a special account in the Treasury of the United States.

(B) AVAILABILITY- Amounts deposited under subparagraph (A) shall--

(i) be available for expenditure by the Secretary concerned, without further appropriation; and

(ii) remain available until expended in accordance with title II.

(3) ELECTION-

(A) NOTIFICATION-

(i) IN GENERAL- An eligible county shall notify the Secretary concerned of an election by the eligible county under this subsection not later than September 30, 2008 (or as soon thereafter as the Secretary concerned determines is practicable), and each September 30 thereafter for each succeeding fiscal year.

(ii) FAILURE TO ELECT- Except as provided in subparagraph (B), if the eligible county fails to make an election by the date specified in clause (i), the eligible county shall--

(I) be considered to have elected to expend 85 percent of the funds in accordance with paragraph (1)(A); and

(II) return the balance to the Treasury of the United States.

(B) COUNTIES WITH MINOR DISTRIBUTIONS- In the case of each eligible county to which less than $100,000 is distributed for any fiscal year pursuant to either or both of paragraphs (1)(B) and (2)(B) of subsection (a), the eligible county may elect to expend all the funds in the same manner in which the 25-percent payments or 50-percent payments, as applicable, are required to be expended.

(c) Time for Payment- The payments required under this section for a fiscal year shall be made as soon as practicable after the end of that fiscal year.

SEC. 103. TRANSITION PAYMENTS TO STATES.

(a) Definitions- In this section:

(1) ADJUSTED AMOUNT- The term 'adjusted amount' means, with respect to a covered State--

(A) for fiscal year 2008, 90 percent of--

(i) the sum of the amounts paid for fiscal year 2006 under section 102(a)(2) (as in effect on September 29, 2006) for the eligible counties in the covered State that have elected under section 102(b) to receive a share of the State payment for fiscal year 2008; and

(ii) the sum of the amounts paid for fiscal year 2006 under section 103(a)(2) (as in effect on September 29, 2006) for the eligible counties in the State of Oregon that have elected under section 102(b) to receive the county payment for fiscal year 2008;

(B) for fiscal year 2009, 81 percent of--

(i) the sum of the amounts paid for fiscal year 2006 under section 102(a)(2) (as in effect on September 29, 2006) for the eligible counties in the covered State that have elected under section 102(b) to receive a share of the State payment for fiscal year 2009; and

(ii) the sum of the amounts paid for fiscal year 2006 under section 103(a)(2) (as in effect on September 29, 2006) for the eligible counties in the State of Oregon that have elected under section 102(b) to receive the county payment for fiscal year 2009; and
(C) for fiscal year 2010, 73 percent of—

(i) the sum of the amounts paid for fiscal year 2006 under section 102(a)(2) (as in effect on September 29, 2006) for the eligible counties in the covered State that have elected under section 102(b) to receive a share of the State payment for fiscal year 2010; and

(ii) the sum of the amounts paid for fiscal year 2006 under section 103(a)(2) (as in effect on September 29, 2006) for the eligible counties in the State of Oregon that have elected under section 102(b) to receive the county payment for fiscal year 2010.

(2) COVERED STATE- The term 'covered State' means each of the States of California, Louisiana, Oregon, Pennsylvania, South Carolina, South Dakota, Texas, and Washington.

(b) Transition Payments- For each of fiscal years 2008 through 2010, in lieu of the payment amounts that otherwise would have been made under paragraphs (1)(B) and (2)(B) of section 102(a), the Secretary of the Treasury shall pay the adjusted amount to each covered State and the eligible counties within the covered State, as applicable.

(c) Distribution of Adjusted Amount- Except as provided in subsection (d), it is the intent of Congress that the method of distributing the payments under subsection (b) among the counties in the covered States for each of fiscal years 2008 through 2010 be in the same proportion that the payments were distributed to the eligible counties in fiscal year 2006.

(d) Distribution of Payments in California- The following payments shall be distributed among the eligible counties in the State of California in the same proportion that payments under section 102(a)(2) (as in effect on September 29, 2006) were distributed to the eligible counties for fiscal year 2006:

(1) Payments to the State of California under subsection (b).

(2) The shares of the eligible counties of the State payment for California under section 102 for fiscal year 2011.

(e) Treatment of Payments- For purposes of this Act, any payment made under subsection (b) shall be considered to be a payment made under section 102(a).

TITLE II--SPECIAL PROJECTS ON FEDERAL LAND

SEC. 201. DEFINITIONS.

In this title:

(1) PARTICIPATING COUNTY. The term 'participating county' means an eligible county that elects under section 102(d) to expend a portion of the Federal funds received under section 102 in accordance with this title.

(2) PROJECT FUNDS- The term 'project funds' means all funds an eligible county elects under section 102(d) to reserve for expenditure in accordance with this title.

(3) RESOURCE ADVISORY COMMITTEE- The term 'resource advisory committee' means--

(A) an advisory committee established by the Secretary concerned under section 205; or

(B) an advisory committee determined by the Secretary concerned to meet the requirements of section 205.

(4) RESOURCE MANAGEMENT PLAN- The term 'resource management plan' means--

(A) a land use plan prepared by the Bureau of Land Management for units of the Federal land described in section 3(7)(B) pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712); or

(B) a land and resource management plan prepared by the Forest Service for units of the National Forest System pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604).
SEC. 202. GENERAL LIMITATION ON USE OF PROJECT FUNDS.
(a) Limitation- Project funds shall be expended solely on projects that meet the requirements of this title.
(b) Authorized Uses- Project funds may be used by the Secretary concerned for the purpose of entering into and implementing cooperative agreements with willing Federal agencies, State and local governments, private and nonprofit entities, and landowners for protection, restoration, and enhancement of fish and wildlife habitat, and other resource objectives consistent with the purposes of this Act on Federal land and on non-Federal land where projects would benefit the resources on Federal land.

SEC. 203. SUBMISSION OF PROJECT PROPOSALS.
(a) Submission of Project Proposals to Secretary Concerned-
(1) PROJECTS FUNDED USING PROJECT FUNDS- Not later than September 30 for fiscal year 2008 (or as soon thereafter as the Secretary concerned determines is practicable), and each September 30 thereafter for each succeeding fiscal year through fiscal year 2011, each resource advisory committee shall submit to the Secretary concerned a description of any projects that the resource advisory committee proposes the Secretary undertake using any project funds reserved by eligible counties in the area in which the resource advisory committee has geographic jurisdiction.
(2) PROJECTS FUNDED USING OTHER FUNDS- A resource advisory committee may submit to the Secretary concerned a description of any projects that the committee proposes the Secretary undertake using funds from State or local governments, or from the private sector, other than project funds and funds appropriated and otherwise available to do similar work.
(3) JOINT PROJECTS- Participating counties or other persons may propose to pool project funds or other funds, described in paragraph (2), and jointly propose a project or group of projects to a resource advisory committee established under section 205.

(b) Required Description of Projects- In submitting proposed projects to the Secretary concerned under subsection (a), a resource advisory committee shall include in the description of each proposed project the following information:
(1) The purpose of the project and a description of how the project will meet the purposes of this title.
(2) The anticipated duration of the project.
(3) The anticipated cost of the project.
(4) The proposed source of funding for the project, whether project funds or other funds.
(5)(A) Expected outcomes, including how the project will meet or exceed desired ecological conditions, maintenance objectives, or stewardship objectives.
(B) An estimate of the amount of any timber, forage, and other commodities and other economic activity, including jobs generated, if any, anticipated as part of the project.
(6) A detailed monitoring plan, including funding needs and sources, that-
(A) tracks and identifies the positive or negative impacts of the project, implementation, and provides for validation monitoring, and
(B) includes an assessment of the following:
(i) Whether or not the project met or exceeded desired ecological conditions; created local employment or training opportunities, including summer youth jobs programs such as the Youth Conservation Corps where appropriate.
(ii) Whether the project improved the use of, or added value to, any products removed from land consistent with the purposes of this title.

(7) An assessment that the project is to be in the public interest.

(c) Authorized Projects - Projects proposed under subsection (a) shall be consistent with section 2.

SEC. 204. EVALUATION AND APPROVAL OF PROJECTS BY SECRETARY CONCERNED.

(a) Conditions for Approval of Proposed Project - The Secretary concerned may make a decision to approve a project submitted by a resource advisory committee under section 203 only if the proposed project satisfies each of the following conditions:

(1) The project complies with all applicable Federal laws (including regulations).
(2) The project is consistent with the applicable resource management plan and with any watershed or subsequent plan developed pursuant to the resource management plan and approved by the Secretary concerned.
(3) The project has been approved by the resource advisory committee in accordance with section 205, including the procedures issued under subsection (e) of that section.
(4) A project description has been submitted by the resource advisory committee to the Secretary concerned in accordance with section 203.
(5) The project will improve the maintenance of existing infrastructure, implement stewardship objectives that enhance forest ecosystems, and restore and improve land health and water quality.

(b) Environmental Reviews -

(1) REQUEST FOR PAYMENT BY COUNTY - The Secretary concerned may request the resource advisory committee submitting a proposed project to agree to the use of project funds to pay for any environmental review, consultation, or compliance with applicable environmental laws required in connection with the project.

(2) CONDUCT OF ENVIRONMENTAL REVIEW - If a payment is requested under paragraph (1) and the resource advisory committee agrees to the expenditure of funds for this purpose, the Secretary concerned shall conduct environmental review, consultation, or other compliance responsibilities in accordance with Federal laws (including regulations).

(3) EFFECT OF REFUSAL TO PAY -

(A) IN GENERAL - If a resource advisory committee does not agree to the expenditure of funds under paragraph (1), the project shall be deemed withdrawn from further consideration by the Secretary concerned pursuant to this title.

(B) EFFECT OF WITHDRAWAL - A withdrawal under subparagraph (A) shall be deemed to be a rejection of the project for purposes of section 207(c).

(c) Decisions of Secretary Concerned -

(1) REJECTION OF PROJECTS -

(A) IN GENERAL - A decision by the Secretary concerned to reject a proposed project shall be at the sole discretion of the Secretary concerned.

(B) NO ADMINISTRATIVE APPEAL OR JUDICIAL REVIEW - Notwithstanding any other provision of law, a decision by the Secretary concerned to reject a proposed project shall not be subject to administrative appeal or judicial review.

(C) NOTICE OF REJECTION - Not later than 30 days after the date on which the Secretary concerned makes the rejection decision, the Secretary concerned shall notify in writing the resource advisory committee that
submitted the proposed project of the rejection and the reasons for rejection.

'(2) NOTICE OF PROJECT APPROVAL- The Secretary concerned shall publish in the Federal Register notice of each project approved under subsection (a) if the notice would be required had the project originated with the Secretary.

'(d) Source and Conduct of Project- Once the Secretary concerned accepts a project for review under section 203, the acceptance shall be deemed a Federal action for all purposes.

'(e) Implementation of Approved Projects-

'(1) COOPERATION- Notwithstanding chapter 63 of title 31, United States Code, using project funds the Secretary concerned may enter into contracts, grants, and cooperative agreements with States and local governments, private and nonprofit entities, and landowners and other persons to assist the Secretary in carrying out an approved project.

'(2) BEST VALUE CONTRACTING-

'(A) IN GENERAL- For any project involving a contract authorized by paragraph (1) the Secretary concerned may elect a source for performance of the contract on a best value basis.

'(B) FACTORS- The Secretary concerned shall determine best value based on such factors as--

'(i) the technical demands and complexity of the work to be done;
'(ii) the ecological objectives of the project; and
'(iii) the sensitivity of the resources being treated;
'(iv) the past experience by the contractor with the type of work being done, using the type of equipment proposed for the project, and meeting or exceeding desired ecological conditions; and
'(v) the commitment of the contractor to hiring highly qualified workers and local residents.

'(3) MERCHANDABLE TIMBER CONTRACTING PILOT PROGRAM-

'(A) ESTABLISHMENT- The Secretary concerned shall establish a pilot program to implement a certain percentage of approved projects involving the sale of merchantable timber using separate contracts for--

'(i) the harvesting or collection of merchantable timber; and
'(ii) the sale of the timber.

'(B) ANNUAL PERCENTAGES- Under the pilot program, the Secretary concerned shall ensure that, on a nationwide basis, not less than the following percentage of all approved projects involving the sale of merchantable timber are implemented using separate contracts:

'(i) For fiscal year 2008, 35 percent.
'(ii) For fiscal year 2009, 45 percent.
'(iii) For each of fiscal years 2010 and 2011, 50 percent.

'(C) INCLUSION IN PILOT PROGRAM- The decision whether to use separate contracts to implement a project involving the sale of merchantable timber shall be made by the Secretary concerned after the approval of the project under this title.

'(D) ASSISTANCE-

'(i) IN GENERAL- The Secretary concerned may use funds from any appropriated account available to the Secretary for the Federal land to assist in the administration of projects conducted under the pilot program.

'(ii) MAXIMUM AMOUNT OF ASSISTANCE- The total amount obligated under this subparagraph may not exceed $1,000,000 for any fiscal year during which the pilot program is in effect.
'E) REVIEW AND REPORT.'

(i) INITIAL REPORT- Not later than September 30, 2010, the Comptroller General shall submit to the Committees on Agriculture, Nutrition, and Forestry and Energy and Natural Resources of the Senate and the Committees on Agriculture and Natural Resources of the House of Representatives a report assessing the pilot program.

(ii) ANNUAL REPORT- The Secretary concerned shall submit to the Committees on Agriculture, Nutrition, and Forestry and Energy and Natural Resources of the Senate and the Committees on Agriculture and Natural Resources of the House of Representatives an annual report describing the results of the pilot program.

(f) Requirements for Project Funds- The Secretary shall ensure that at least 50 percent of all project funds be used for projects that are primarily dedicated:

(1) to road maintenance, decommissioning, or obliteration; or
(2) to restoration of streams and watersheds.

SEC. 205. RESOURCE ADVISORY COMMITTEES.

(a) Establishment and Purpose of Resource Advisory Committees-

(1) ESTABLISHMENT- The Secretary concerned shall establish and maintain resource advisory committees to perform the duties in subsection (b), except as provided in paragraph (4).

(2) PURPOSE- The purpose of a resource advisory committee shall be:

(A) to improve collaborative relationships; and
(B) to provide advice and recommendations to the land management agencies consistent with the purposes of this title.

(3) ACCESS TO RESOURCE ADVISORY COMMITTEES- To ensure that each unit of Federal land has access to a resource advisory committee, and that there is sufficient interest in participation on a committee to ensure that membership can be balanced in terms of the points of view represented and the functions to be performed, the Secretary concerned may, establish resource advisory committees for part of, or 1 or more, units of Federal land.

(4) EXISTING ADVISORY COMMITTEES-

(A) IN GENERAL- An advisory committee that meets the requirements of this section, a resource advisory committee established before September 29, 2006, or an advisory committee determined by the Secretary concerned before September 29, 2006, to meet the requirements of this section may be deemed by the Secretary concerned to be a resource advisory committee for the purposes of this title.

(B) CHARTER- A charter for a committee described in subparagraph (A) that was filed on or before September 29, 2006, shall be considered to be filed for purposes of this Act.

(C) BUREAU OF LAND MANAGEMENT ADVISORY COMMITTEES- The Secretary of the Interior may deem a resource advisory committee meeting the requirements of subpart 1784 of part 1780 of title 43, Code of Federal Regulations, as a resource advisory committee for the purposes of this title.

(b) Duties- A resource advisory committee shall:

(1) review projects proposed under this title by participating counties and other persons;
(2) propose projects and funding to the Secretary concerned under section 203;
(3) provide early and continuous coordination with appropriate land management agency officials in recommending projects consistent with purposes of this Act under this title;

(4) provide frequent opportunities for citizens, organizations, tribes, land management agencies, and other interested parties to participate openly and meaningfully, beginning at the early stages of the project development process under this title;

(5)(A) monitor projects that have been approved under section 204; and

(B) advise the designated Federal official on the progress of the monitoring efforts under subparagraph (A); and

(6) make recommendations to the Secretary concerned for any appropriate changes or adjustments to the projects being monitored by the resource advisory committee.

(c) Appointment by the Secretary-

(1) APPOINTMENT AND TERM-

(A) IN GENERAL. The Secretary concerned, shall appoint the members of resource advisory committees for a term of 4 years beginning on the date of appointment.

(B) REAPPOINTMENT. The Secretary concerned may reappoint members to subsequent 4-year terms.

(2) BASIC REQUIREMENTS. The Secretary concerned shall ensure that each resource advisory committee established meets the requirements of subsection (d).

(3) INITIAL APPOINTMENT. Not later than 180 days after the date of the enactment of this Act, the Secretary concerned shall make initial appointments to the resource advisory committees.

(4) VACANCIES. The Secretary concerned shall make appointments to fill vacancies on any resource advisory committee as soon as practicable after the vacancy has occurred.

(5) COMPENSATION. Members of the resource advisory committees shall not receive any compensation.

(d) Composition of Advisory Committee-

(1) NUMBER. Each resource advisory committee shall be comprised of 15 members.

(2) COMMUNITY INTERESTS REPRESENTED. Committee members shall be representative of the interests of the following 3 categories:

(A) 5 persons that--

(i) represent organized labor or non-timber forest product harvester groups;

(ii) represent developed outdoor recreation, off highway vehicle users, or commercial recreation activities;

(iii) represent--

(I) energy and mineral development interests; or

(II) commercial or recreational fishing interests;

(iv) represent the commercial timber industry; or

(v) hold Federal grazing or other land use permits, or represent nonindustrial private forest land owners, within the area for which the committee is organized.

(B) 5 persons that represent--

(i) nationally recognized environmental organizations;

(ii) regionally or locally recognized environmental organizations;

(iii) dispersed recreational activities;

(iv) archaeological and historical interests; or
(v) nationally or regionally recognized wild horse and burro interest groups, wildlife or hunting organizations, or watershed associations.

(C) 5 persons that--

(i) hold State elected office (or a designee);
(ii) hold county or local elected office;
(iii) represent American Indian tribes within or adjacent to the area for which the committee is organized;
(iv) are school officials or teachers; or
(v) represent the affected public at large.

(3) BALANCED REPRESENTATION- In appointing committee members from the 5 categories in paragraph (2), the Secretary concerned shall provide for balanced and broad representation from within each category.

(4) GEOGRAPHIC DISTRIBUTION- The members of a resource advisory committee shall reside within the State in which the committee has jurisdiction and, to extent practicable, the Secretary concerned shall ensure local representation in each category in paragraph (2).

(5) CHAIRPERSON- A majority on each resource advisory committee shall select the chairperson of the committee.

(e) Approval Procedures-

(1) IN GENERAL- Subject to paragraph (3), each resource advisory committee shall establish procedures for proposing projects to the Secretary concerned under this title.

(2) QUORUM- A quorum must be present to constitute an official meeting of the committee.

(3) APPROVAL BY MAJORITY OF MEMBERS- A project may be proposed by a resource advisory committee to the Secretary concerned under section 203(a), if the project has been approved by a majority of members of the committee from each of the 5 categories in subsection (d)(2).

(f) Other Committee Authorities and Requirements-

(1) STAFF ASSISTANCE- A resource advisory committee may submit to the Secretary concerned a request for periodic staff assistance from Federal employees under the jurisdiction of the Secretary.

(2) MEETINGS- All meetings of a resource advisory committee shall be announced at least 1 week in advance in a local newspaper of record and shall be open to the public.

(3) RECORDS- A resource advisory committee shall maintain records of the meetings of the committee and make the records available for public inspection.

SEC. 206. USE OF PROJECT FUNDS.

(a) Agreement Regarding Schedule and Cost of Project-

(1) AGREEMENT BETWEEN PARTIES- The Secretary concerned may carry out a project submitted by a resource advisory committee under section 203(a) using project funds or other funds described in section 203(a)(2), if, as soon as practicable after the issuance of a decision document for the project and the exhaustion of all administrative appeals and judicial review of the project decision, the Secretary concerned and the resource advisory committee enter into an agreement addressing, at a minimum, the following:

(A) The schedule for completing the project.
(B) The total cost of the project, including the level of agency overhead to be assessed against the project.
(C) For a multiyear project, the estimated cost of the project for each of the fiscal years in which it will be carried out.
(D) The remedies for failure of the Secretary concerned to comply with the terms of the agreement consistent with current Federal law.

(2) LIMITED USE OF FEDERAL FUNDS.- The Secretary concerned may decide, at the sole discretion of the Secretary concerned, to cover the costs of a portion of an approved project using Federal funds appropriated or otherwise available to the Secretary for the same purposes as the project.

(b) Transfer of Project Funds-

(1) INITIAL TRANSFER REQUIRED.- As soon as practicable after the agreement is reached under subsection (a) with regard to a project to be funded in whole or in part using project funds, or other funds described in section 203(a)(2), the Secretary concerned shall transfer to the applicable unit of National Forest System land or Bureau of Land Management District an amount of project funds equal to-

(A) in the case of a project to be completed in a single fiscal year, the total amount specified in the agreement to be paid using project funds, or other funds described in section 203(a)(2); or

(B) in the case of a multiyear project, the amount specified in the agreement to be paid using project funds, or other funds described in section 203(a)(2) for the first fiscal year.

(2) CONDITION ON PROJECT COMMENCEMENT.- The unit of National Forest System land or Bureau of Land Management District concerned, shall not commence a project until the project funds, or other funds described in section 203(a)(2) required to be transferred under paragraph (1) for the project, have been made available by the Secretary concerned.

(3) SUBSEQUENT TRANSFERS FOR MULTILYEAR PROJECTS-

(A) IN GENERAL.- For the second and subsequent fiscal years of a multiyear project to be funded in whole or in part using project funds, the unit of National Forest System land or Bureau of Land Management District concerned shall use the amount of project funds required to continue the project in that fiscal year according to the agreement entered into under subsection (a).

(B) SUSPENSION OF WORK.- The Secretary concerned shall suspend work on the project if the project funds required by the agreement in the second and subsequent fiscal years are not available.

SEC. 207. AVAILABILITY OF PROJECT FUNDS.

(a) Submission of Proposed Projects To Obligate Funds.- By September 30, 2008 (or as soon thereafter as the Secretary concerned determines is practicable), and each September 30 thereafter for each succeeding fiscal year through fiscal year 2011, a resource advisory committee shall submit to the Secretary concerned pursuant to section 203(a)(1) a sufficient number of project proposals that, if approved, would result in the obligation of at least the full amount of the project funds reserved by the participating county in the preceding fiscal year.

(b) Use or Transfer of Unobligated Funds.- Subject to section 208, if a resource advisory committee fails to comply with subsection (a) for a fiscal year, any project funds reserved by the participating county in the preceding fiscal year and remaining unobligated shall be available for use as part of the project submissions in the next fiscal year.

(c) Effect of Rejection of Projects.- Subject to section 208, any project funds reserved by a participating county in the preceding fiscal year that are unobligated at the end of a fiscal year because the Secretary concerned has rejected one or more proposed projects shall be available for use as part of the project submissions in the next fiscal year.

(d) Effect of Court Orders.
"(1) IN GENERAL- If an approved project under this Act is enjoined or prohibited by a Federal court, the Secretary concerned shall return the unobligated project funds related to the project to the participating county or counties that reserved the funds.

(2) EXPENDITURE OF FUNDS- The returned funds shall be available for the county to expend in the same manner as the funds reserved by the county under subparagraph (B) or (C)(i) of section 102(d)(1).

SEC. 208. TERMINATION OF AUTHORITY.

'(a) In General- The authority to initiate projects under this title shall terminate on September 30, 2011.

(b) Deposits in Treasury- Any project funds not obligated by September 30, 2012, shall be deposited in the Treasury of the United States.

TITLE III--COUNTY FUNDS

SEC. 301. DEFINITIONS.

In this title:

(1) COUNTY FUNDS- The term 'county funds' means all funds an eligible county elects under section 102(d) to reserve for expenditure in accordance with this title.

(2) PARTICIPATING COUNTY- The term 'participating county' means an eligible county that elects under section 102(d) to expend a portion of the Federal funds received under section 102 in accordance with this title.

SEC. 302. USE.

(a) Authorized Uses- A participating county, including any applicable agencies of the participating county, shall use county funds, in accordance with this title, only--

(1) to carry out activities under the Firewise Communities program to provide to homeowners in fire-sensitive ecosystems education on, and assistance with implementing, techniques in home siting, home construction, and home landscaping that can increase the protection of people and property from wildfires;

(2) to reimburse the participating county for search and rescue and other emergency services, including firefighting, that are--

(A) performed on Federal land after the date on which the use was approved under subsection (b);

(B) paid for by the participating county; and

(3) to develop community wildfire protection plans in coordination with the appropriate Secretary concerned.

(b) Proposals- A participating county shall use county funds for a use described in subsection (a) only after a 45-day public comment period, at the beginning of which the participating county shall--

(1) publish in any publications of local record a proposal that describes the proposed use of the county funds; and

(2) submit the proposal to any resource advisory committee established under section 205 for the participating county.

SEC. 303. CERTIFICATION.

(a) In General- Not later than February 1 of the year after the year in which any county funds were expended by a participating county, the appropriate official of the participating county shall submit to the Secretary concerned a certification that the county funds expended in the applicable year have been used for the uses authorized under section 302(a), including a description of the amounts expended and the uses for which the amounts were expended.

(b) Review- The Secretary concerned shall review the certifications submitted under subsection(a) as the Secretary concerned determines to be appropriate.

SEC. 304. TERMINATION OF AUTHORITY.
(a) In General- The authority to initiate projects under this title terminates on September 30, 2011.
(b) Availability- Any county funds not obligated by September 30, 2012, shall be returned to the Treasury of the United States.

**TITLE IV.-MISCELLANEOUS PROVISIONS**

**SEC. 401. REGULATIONS.**

The Secretary of Agriculture and the Secretary of the Interior shall issue regulations to carry out the purposes of this Act.

**SEC. 402. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this Act for each of fiscal years 2008 through 2011.

**SEC. 403. TREATMENT OF FUNDS AND REVENUES.**

(a) Relation to Other Appropriations- Funds made available under section 402 and funds made available to a Secretary concerned under section 206 shall be in addition to any other annual appropriations for the Forest Service and the Bureau of Land Management.
(b) Deposit of Revenues and Other Funds- All revenues generated from projects pursuant to title II, including any interest accrued from the revenues, shall be deposited in the Treasury of the United States.

(b) Forest Receipt Payments to Eligible States and Counties-
(1) ACT OF MAY 23, 1908- The sixth paragraph under the heading 'FOREST SERVICE' in the Act of May 23, 1908 (16 U.S.C. 500) is amended in the first sentence by striking 'twenty-five percentum' and all that follows through 'shall be paid' and inserting the following: 'an amount equal to the annual average of 25 percent of all amounts received for the applicable fiscal year and each of the preceding 6 fiscal years from each national forest shall be paid'.
(2) WEEKS LAW - Section 13 of the Act of March 1, 1911 (commonly known as the 'Weeks Law') (16 U.S.C. 500) is amended in the first sentence by striking 'twenty-five percentum' and all that follows through 'shall be paid' and inserting the following: 'an amount equal to the annual average of 25 percent of all amounts received for the applicable fiscal year and each of the preceding 6 fiscal years from each national forest shall be paid'.

(c) Payments in Lieu of Taxes-
(1) IN GENERAL- Section 6906 of title 31, United States Code, is amended to read as follows:

'Sec. 6906. Funding

For each of fiscal years 2008 through 2012--

'(1) each county or other eligible unit of local government shall be entitled to payment under this chapter, and
'(2) sums shall be made available to the Secretary of the Interior for obligation or expenditure in accordance with this chapter.'

(2) CONFORMING AMENDMENT- The table of sections for chapter 69 of title 31, United States Code, is amended by striking the item relating to section 6906 and inserting the following:

'6906. Funding.'

(3) BUDGET SCOREKEEPING-

(A) IN GENERAL- Notwithstanding the Budget Scorekeeping Guidelines and the accompanying list of programs and accounts set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105-217, the section in this title regarding Payments in Lieu of Taxes shall be treated in the baseline for purposes of section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (as in effect prior to September 30, 2002), and by the Chairmen of the House and
Senate Budget Committees, as appropriate, for purposes of budget enforcement in the House and Senate, and under the Congressional Budget Act of 1974 as if Payment in Lieu of Taxes (14-1114-0-1-806) were an account designated as Appropriated Entitlements and Mandatories for Fiscal Year 1997 in the joint explanatory statement of the committee of conference accompanying Conference Report 105-217.

(B) EFFECTIVE DATE- This paragraph shall remain in effect for the fiscal years to which the entitlement in section 6906 of title 31, United States Code (as amended by paragraph (1)), applies.

SEC. 602. TRANSFER TO ABANDONED MINE RECLAMATION FUND.

Subparagraph (C) of section 402(i)(1) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(i)(1)) is amended by striking ‘and $9,000,000 on October 1, 2009’ and inserting ‘$9,000,000 on October 1, 2009, and $9,000,000 on October 1, 2010’.
Tracy Gauthier

From: Mary Hodson
Sent: Monday, March 22, 2010 12:35 PM
To: Tracy Gauthier
Subject: RE: To Rick Benson

Tracy:

The loan agreement with Area 12 never happened because the State adopted their budget in time for Area 12 to receive operating cash, so nothing was ever signed by Area 12. The Federal Government still hasn’t appointed new members to the RAC, so no letter to send to the RAC because we don’t have any voting members on this committee. Asked for a signed copy of the MOU for the dental program, but don’t believe I’ll ever get one back, but I’ll ask again.

Mary

From: Tracy Gauthier
Sent: Monday, March 22, 2010 12:16 PM
To: Rick Benson; Mary Hodson; Sandra Laird
Subject: To Rick Benson

Attached is a list of pending agreements/documents for our files. Please review the list and forward any you may have in your files. If you have any questions please do not hesitate to contact me.

Thank you for your assistance

3/22/2010