

117TH CONGRESS
1ST SESSION

S. 3046

To codify the authority of the Secretary of Agriculture and the Secretary of the Interior to conduct certain landscape-scale forest restoration projects, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 21, 2021

Mr. DAINES (for himself and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To codify the authority of the Secretary of Agriculture and the Secretary of the Interior to conduct certain landscape-scale forest restoration projects, and for other purposes.

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 “Root and Stem Project
5 Authorization Act of 2021”.

6 **SEC. 2. ROOT AND STEM PROJECTS.**

7 (a) **DEFINITIONS.**—In this section:

1 (1) COLLABORATIVE PROCESS.—The term “col-
2 laborative process” means a process that—

3 (A) includes multiple interested persons
4 representing diverse interests; and

5 (B)(i) is transparent and nonexclusive; or

6 (ii) meets the requirements for a resource
7 advisory committee under subsections (c)
8 through (f) of section 205 of the Secure Rural
9 Schools and Community Self-Determination Act
10 of 2000 (16 U.S.C. 7125).

11 (2) ELIGIBLE ENTITY.—The term “eligible enti-
12 ty” means a private person or other public or private
13 entity with which the Secretary concerned enters
14 into an agreement or contract under section 604(b)
15 of the Healthy Forests Restoration Act of 2003 (16
16 U.S.C. 6591c(b)).

17 (3) FEDERAL LAND.—The term “Federal land”
18 means—

19 (A) land of the National Forest System (as
20 defined in section 11(a) of the Forest and
21 Rangeland Renewable Resources Planning Act
22 of 1974 (16 U.S.C. 1609(a))); and

23 (B) public lands (as defined in section 103
24 of the Federal Land Policy and Management
25 Act of 1976 (43 U.S.C. 1702)).

1 (4) ROOT AND STEM PROJECT.—The term
2 “Root and Stem project” means a project under sec-
3 tion 604 of the Healthy Forests Restoration Act of
4 2003 (16 U.S.C. 6591e)—

5 (A) proposed prior to completing the envi-
6 ronmental review process under the National
7 Environmental Policy Act of 1969 (42 U.S.C.
8 4321 et seq.); and

9 (B) that satisfies the requirements de-
10 scribed in subsections (c) and (d).

11 (5) SECRETARY CONCERNED.—The term “Sec-
12 retary concerned” means, as applicable—

13 (A) the Secretary of Agriculture, acting
14 through the Chief of the Forest Service; or

15 (B) the Secretary of the Interior, acting
16 through the Director of the Bureau of Land
17 Management.

18 (b) AUTHORIZATION.—The Secretary concerned may
19 enter into a contract or agreement with an eligible entity
20 to conduct a Root and Stem project.

21 (c) REQUIREMENTS.—

22 (1) PERIOD.—The period of a contract or
23 agreement entered into under subsection (b) may
24 not exceed 10 years.

1 (2) REQUESTS FOR PROPOSALS.—The Sec-
2 retary concerned, in coordination with State and
3 local stakeholders, shall—

4 (A) identify areas well-suited to conduct
5 Root and Stem projects; and

6 (B) issue requests for proposals for Root
7 and Stem projects, including, at a minimum—

8 (i) the total acreage and boundaries of
9 the proposed Root and Stem project area;

10 (ii) the land management objectives of
11 the applicable unit of Federal land to be
12 achieved by the Root and Stem project;

13 and

14 (iii) monitoring and performance
15 standards for the Root and Stem project.

16 (d) ENVIRONMENTAL ANALYSES AND PROJECT DE-
17 SIGN.—

18 (1) IN GENERAL.—The environmental analysis
19 and review under the National Environmental Policy
20 Act of 1969 (42 U.S.C. 4321 et seq.) for a Root and
21 Stem project shall be conducted—

22 (A) after the applicable contract or agree-
23 ment is entered into under subsection (b); and

1 (B) by an independent third party ap-
2 proved by the Secretary concerned in accord-
3 ance with paragraph (2).

4 (2) REVIEW AND APPROVAL OF INDEPENDENT
5 THIRD PARTIES.—The Secretary concerned shall—

6 (A) review an independent third party se-
7 lected by an eligible entity carrying out a Root
8 and Stem project, including a review for any
9 conflict of interest between the independent
10 third party and the eligible entity; and

11 (B) approve that independent third party
12 if the Secretary concerned determines that—

13 (i) there is no conflict of interest de-
14 scribed in subparagraph (A); and

15 (ii) the approval is otherwise appro-
16 priate.

17 (3) AUTHORITY OF SECRETARY CONCERNED.—

18 Any decision required to be made under the Na-
19 tional Environmental Policy Act of 1969 (42 U.S.C.
20 4321 et seq.) with respect to a Root and Stem
21 project on Federal land shall be made by the Sec-
22 retary concerned.

23 (4) SERVICES UNDER STEWARDSHIP CON-
24 TRACTS.—In determining the cost of services re-
25 ceived under a contract or agreement entered into

1 under subsection (b) in accordance with section
2 604(d)(4)(A) of the Healthy Forests Restoration Act
3 of 2003 (16 U.S.C. 6591c(d)(4)(A)), the Secretary
4 concerned shall apply the cost to the eligible entity
5 associated with work performed to develop and com-
6 plete an environmental analysis under the National
7 Environmental Policy Act of 1969 (42 U.S.C. 4321
8 et seq.) with respect to the applicable Root and
9 Stem project.

10 (5) COLLABORATIVE PROCESS.—The Secretary
11 concerned shall ensure that a collaborative process is
12 used to design and implement a Root and Stem
13 project.

14 (6) OVERSIGHT.—Not later than 60 days after
15 the date of enactment of this Act, the Secretary con-
16 cerned shall provide a notification and guidance to
17 each local field office of the Forest Service and the
18 Bureau of Land Management establishing a process
19 for—

20 (A) monitoring the integrity and develop-
21 ment of the environmental analyses for Root
22 and Stem projects;

23 (B) reviewing and approving an inde-
24 pendent third party under paragraph (2);

1 (C) ensuring compliance with paragraph
2 (5); and

3 (D) carrying out corrective actions if an el-
4 igible entity carrying out a Root and Stem
5 project does not comply with this section or any
6 other applicable provision of law, including with
7 respect to whether to issue a decision notice
8 and when to require changes or additions to the
9 environmental analysis if appropriate.

10 (e) JUDICIAL REVIEW.—

11 (1) IN GENERAL.—Section 106 of the Healthy
12 Forests Restoration Act of 2003 (16 U.S.C. 6516)
13 shall apply to the judicial review of a Root and Stem
14 project in the same manner as that section applies
15 to the judicial review of an authorized hazardous
16 fuel reduction project (as defined in section 101 of
17 that Act (16 U.S.C. 6511)).

18 (2) STATUTE OF LIMITATIONS.—No legal action
19 challenging a Root and Stem project or any activity
20 under a Root and Stem project may be brought
21 more than 120 days after the later of—

22 (A) the date on which the Secretary con-
23 cerned provides public notice of the award of a
24 contract or agreement to carry out the Root
25 and Stem project; and

1 (B) the date on which the Secretary con-
2 cerned issues a decision approving the Root and
3 Stem project.

4 (3) INJUNCTIONS.—A court shall not enjoin a
5 Root and Stem project authorized under this section
6 that is developed and implemented through a col-
7 laborative process if the court determines that the
8 plaintiff is unable to demonstrate that the claim of
9 the plaintiff is likely to succeed on the merits.

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