

Calendar No. 548

117TH CONGRESS
2D SESSION

S. 3046

[Report No. 117-197]

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

NOVEMBER 15, 2022

Reported by Mr. MANCHIN, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Root and Stem Project
3 Authorization Act of 2021”.

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

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

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

8 (A) includes multiple interested persons
9 representing diverse interests; and

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

11 (ii) meets the requirements for a resource
12 advisory committee under subsections (e)
13 through (f) of section 205 of the Secure Rural
14 Schools and Community Self-Determination Act
15 of 2000 (16 U.S.C. 7125).

16 (2) **ELIGIBLE ENTITY.**—The term “eligible enti-
17 ty” means a private person or other public or private
18 entity with which the Secretary concerned enters
19 into an agreement or contract under section 604(b)
20 of the Healthy Forests Restoration Act of 2003 (16
21 U.S.C. 6591e(b)).

22 (3) **FEDERAL LAND.**—The term “Federal land”
23 means—

24 (A) land of the National Forest System (as
25 defined in section 11(a) of the Forest and

1 Rangeland Renewable Resources Planning Act
2 of 1974 (16 U.S.C. 1609(a)); and

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

6 (4) ROOT AND STEM PROJECT.—The term
7 “Root and Stem project” means a project under sec-
8 tion 604 of the Healthy Forests Restoration Act of
9 2003 (16 U.S.C. 6591e)—

10 (A) proposed prior to completing the envi-
11 ronmental review process under the National
12 Environmental Policy Act of 1969 (42 U.S.C.
13 4321 et seq.); and

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

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

18 (A) the Secretary of Agriculture, acting
19 through the Chief of the Forest Service; or

20 (B) the Secretary of the Interior, acting
21 through the Director of the Bureau of Land
22 Management.

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

1 (c) REQUIREMENTS.—

2 (1) PERIOD.—The period of a contract or
3 agreement entered into under subsection (b) may
4 not exceed 10 years.

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

8 (A) identify areas well-suited to conduct
9 Root and Stem projects; and

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

12 (i) the total acreage and boundaries of
13 the proposed Root and Stem project area;

14 (ii) the land management objectives of
15 the applicable unit of Federal land to be
16 achieved by the Root and Stem project;
17 and

18 (iii) monitoring and performance
19 standards for the Root and Stem project.

20 (d) ENVIRONMENTAL ANALYSES AND PROJECT DE-
21 SIGN.—

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

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

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

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

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

13 (B) approve that independent third party
14 if the Secretary concerned determines that—

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

17 (ii) the approval is otherwise appro-
18 priate.

19 (3) AUTHORITY OF SECRETARY CONCERNED.—

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

1 (4) SERVICES UNDER STEWARDSHIP CON-
2 TRACTS.—In determining the cost of services re-
3 ceived under a contract or agreement entered into
4 under subsection (b) in accordance with section
5 604(d)(4)(A) of the Healthy Forests Restoration Act
6 of 2003 (16 U.S.C. 6591e(d)(4)(A)), the Secretary
7 concerned shall apply the cost to the eligible entity
8 associated with work performed to develop and com-
9 plete an environmental analysis under the National
10 Environmental Policy Act of 1969 (42 U.S.C. 4321
11 et seq.) with respect to the applicable Root and
12 Stem project.

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

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

23 (A) monitoring the integrity and develop-
24 ment of the environmental analyses for Root
25 and Stem projects;

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

3 (C) ensuring compliance with paragraph
4 (5); and

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

12 (c) JUDICIAL REVIEW.—

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

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

24 (A) the date on which the Secretary con-
25 cerned provides public notice of the award of a

1 contract or agreement to carry out the Root
2 and Stem project; and

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

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

12 **SECTION 1. SHORT TITLE.**

13 *This Act may be cited as the “Root and Stem Project*
14 *Authorization Act of 2022”.*

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

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

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

19 (A) *includes multiple interested persons rep-*
20 *resenting diverse interests; and*

21 (B)(i) *is transparent and nonexclusive; or*

22 (ii) *meets the requirements for a resource*
23 *advisory committee under subsections (c) through*
24 *(f) of section 205 of the Secure Rural Schools*

1 *and Community Self-Determination Act of 2000*
2 *(16 U.S.C. 7125).*

3 (2) *FEDERAL LAND.*—*The term “Federal land”*
4 *means—*

5 (A) *land of the National Forest System (as*
6 *defined in section 11(a) of the Forest and Range-*
7 *land Renewable Resources Planning Act of 1974*
8 *(16 U.S.C. 1609(a)); and*

9 (B) *public lands (as defined in section 103*
10 *of the Federal Land Policy and Management Act*
11 *of 1976 (43 U.S.C. 1702)).*

12 (3) *SECRETARY CONCERNED.*—*The term “Sec-*
13 *retary concerned” means, as applicable—*

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

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

19 (b) *LIST OF CONTRACTORS.*—*The Secretary concerned*
20 *shall—*

21 (1) *maintain a list of non-Federal, third-party*
22 *contractors that the Secretary concerned can hire in*
23 *each State to complete the analysis described in sub-*
24 *section (c)(1); and*

1 (2) *not later than 180 days after the date of en-*
2 *actment of this Act, and every 3 years thereafter, sub-*
3 *mit to the Committee on Energy and Natural Re-*
4 *sources of the Senate and the Committee on Natural*
5 *Resources of the House of Representatives a copy of*
6 *the list described in paragraph (1).*

7 (c) *AGREEMENTS.—If a person submits to the Sec-*
8 *retary concerned a proposal for a project on Federal land*
9 *that was developed through a collaborative process and that*
10 *meets local and rural community needs, the Secretary con-*
11 *cerned may enter into an agreement with the person, under*
12 *which—*

13 (1) *the person initially provides to the Secretary*
14 *concerned all, or a portion of, the funding necessary*
15 *to complete any analysis that the Secretary concerned*
16 *determines to be necessary under Federal law, includ-*
17 *ing the National Environmental Policy Act of 1969*
18 *(42 U.S.C. 4321 et seq.) and the Endangered Species*
19 *Act of 1973 (16 U.S.C. 1531 et seq.), for the consider-*
20 *ation of the proposed project;*

21 (2) *the Secretary concerned uses the funding pro-*
22 *vided under paragraph (1) to pay a contractor in-*
23 *cluded on the list maintained under subsection (b)(1)*
24 *to conduct the analysis described in paragraph (1);*

1 (3) on completion of the analysis described in
2 paragraph (1), if the Secretary concerned makes a de-
3 cision to proceed with the project, the Secretary con-
4 cerned—

5 (A) solicits bids to carry out the project;

6 and

7 (B) enters into a contract or agreement
8 under section 604 of the Healthy Forests Res-
9 toration Act of 2003 (16 U.S.C. 6591c) to carry
10 out the project; and

11 (4) using any receipts described in subsection
12 (d)(1), the Secretary concerned, to the maximum ex-
13 tent practicable, repays to the person the funding ini-
14 tially provided under paragraph (1).

15 (d) *ADDITIONAL RELATED AUTHORITIES.*—

16 (1) *USE OF RECEIPTS.*—Any receipts that are
17 generated by a project described in subsection (c) that
18 are normally deposited in the General Fund of the
19 Treasury shall be available for expenditure by the
20 Secretary concerned, without further appropriation or
21 fiscal year limitation, for the use described in sub-
22 section (c)(4).

23 (2) *CONTRACTORS.*—The Secretary concerned
24 may noncompetitively hire a contractor included on

1 *the list maintained under subsection (b)(1) to conduct*
2 *the analysis described in subsection (c)(1).*

3 *(e) SAVINGS CLAUSES.—*

4 *(1) AUTHORITY OF THE SECRETARY CON-*
5 *CERNED.—The Secretary concerned shall—*

6 *(A) determine the sufficiency of any docu-*
7 *ments prepared by a contractor under subsection*
8 *(c)(2); and*

9 *(B) retain responsibility for any author-*
10 *izing decision relating to a proposed project de-*
11 *scribed in subsection (c).*

12 *(2) REVIEW AND APPROVAL OF INDEPENDENT*
13 *THIRD PARTIES.—The Secretary concerned shall*
14 *verify that there is no conflict of interest between—*

15 *(A) a person that submits a proposal under*
16 *subsection (c); and*

17 *(B) a contractor that the Secretary con-*
18 *cerned hires under paragraph (2) of that sub-*
19 *section to carry out an analysis with respect to*
20 *that proposal.*

21 *(3) ADMINISTRATIVE COSTS.—The Secretary con-*
22 *cerned—*

23 *(A) shall only use the funding provided to*
24 *the Secretary concerned under subsection (c)(1)*

1 to pay a contractor pursuant to subsection
2 (c)(2); and

3 (B) shall not use any portion of the funding
4 provided to the Secretary concerned under sub-
5 section (c)(1) to cover any other expense or cost
6 incurred by the Secretary concerned, including
7 administrative costs.

8 (4) *LIMITATIONS ON REIMBURSEMENTS.*—If in-
9 sufficient receipts are generated by a project described
10 in subsection (c) to reimburse the person that pro-
11 vided funding under paragraph (1) of that subsection,
12 the Secretary concerned shall not provide additional
13 funding to the person.

14 (f) *PROMOTION.*—Not later than 60 days after the date
15 of enactment of this Act, the Secretary concerned shall pro-
16 vide guidance to each local field office of the Secretary con-
17 cerned for—

18 (1) making stakeholders aware of the authority
19 under this Act; and

20 (2) encouraging use of that authority to meet
21 land management goals.

22 (g) *TREATMENT OF COLLABORATIVE MEMBERS.*—For
23 purposes of a civil action relating to a project described
24 in subsection (c), any person that participated in the col-

1 *laborative process to develop the proposal for the project*
2 *shall be—*

3 (1) *entitled to intervene, as of right, in any sub-*
4 *sequent civil action; and*

5 (2) *considered to be a full participant in any*
6 *settlement negotiation relating to the project.*

7 (h) *SUNSET.—The requirements described in sub-*
8 *section (b) and the authority to enter into an agreement*
9 *under subsection (c) shall expire on January 1, 2033.*

Calendar No. 548

117TH CONGRESS
2^D SESSION

S. 3046

[Report No. 117-197]

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.

NOVEMBER 15, 2022

Reported with an amendment