Page 382, strike line 19 and all that follows through page 384, line 19, and insert the following:

(j) Binding Arbitration and Limitation on Claims.—Section 139 is further amended by striking subsection (n) (as redesignated by subsection (h)(1) of this section) and inserting the following:

“(n) Binding Arbitration and Limitation on Claims.—

“(1) In General.—Notwithstanding any other provision of law, a claim arising under Federal law seeking review of a permit, license, or approval issued by a Federal agency for a highway or other surface transportation capital project must be submitted to binding arbitration and shall be barred unless it is submitted within 90 days after the date of publication of a notice in the Federal Register announcing that the permit, license, or approval is final pursuant to the law under which the agency action is taken, unless a shorter time is specified in the Federal law pursuant to which review is allowed.
Nothing in this subsection shall create a right to review of a permit, license, or approval or place any limit on submission of a claim that a person has violated the terms of a permit, license, or approval.

“(2) ARBITRATION PANEL.—Arbitration under this subsection shall be conducted by a panel composed of three arbitrators selected from a list provided by the American Arbitration Association. One arbitrator shall be selected by the plaintiff(s), one arbitrator shall be selected by the defendant(s), and the third arbitrator shall be selected by the other two members of the arbitration panel. Arbitrators must have experience and expertise in environmental law and/or development of transportation infrastructure.

“(3) DEADLINES.—

“(A) IN GENERAL.—The arbitration panel shall—

“(i) be selected within 30 calendar days of the submission of a claim;

“(ii) complete its evidentiary review within 90 days of the initiation of the arbitration process; and

“(iii) issue a decision within 30 days after the close of the evidentiary record.
“(B) EXTENSION.—The deadlines in this subsection may be extended by no more than an additional 30 days upon the agreement of all parties in the dispute.

“(4) ARBITRATION PROCEDURES.—The parties to an arbitration under this subsection shall be entitled to a full and fair hearing before the arbitration panel, including the opportunity to present their case in person, by counsel, or by another representative. The arbitration panel’s review shall be limited to the administrative record except when consideration of other evidence is permitted by the Federal law pursuant to which review is allowed.

“(5) DECISION.—Any decision reached in an arbitration process under this subsection shall—

“(A) be consistent with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

“(B) be in writing and contain findings of fact and conclusions of law; (C) have no precedential effect in any other or subsequent arbitration dispute;

“(C) be final, conclusive, and binding upon the parties; and
“(D) be subject to review by a court of the United States only in the event that a verified complaint with supporting affidavits attests to a specific instance of fraud, misrepresentation, or other misconduct by one of the parties to the arbitration or by one of the arbitrators.

“(6) EXPENSES.—The parties to the arbitration shall share equally in the payment of the fees and expenses of the arbitrators.

“(7) NEW INFORMATION.—The Secretary shall consider new information received after the close of a comment period if the information satisfies the requirements for a supplemental environmental impact statement under section 771.130 of title 23, Code of Federal Regulations. The preparation of a supplemental environmental impact statement when required shall be considered a separate final agency action, and the deadline for submission of a claim seeking review of such action to binding arbitration shall be 90 days after the date of publication of a notice in the Federal Register announcing such action.

“(o) LIMITATION ON CLAIMS.—Notwithstanding any other provision of law, the following limitations shall apply
to claims submitted to arbitration in connection with a
project under this section:

“(1) A specific property interest impacted by
the transportation project in question must exist in
order to have standing to submit a claim to arbitra-

“(2) No claim may be submitted by any person
alleging a violation of—

“(A) the National Environmental Policy
Act of 1969 (42 U.S.C. 4321 et. seq.), chapters
5 and 7 of title 5, United State Code, or any
other Federal law applicable to the evaluation,
avoidance, or mitigation of environmental im-
pacts of the project if such Federal law is iden-
tified in the draft environmental impact state-
ment, unless such person provided written no-
tice to the lead agency of the alleged violation
of law, and the facts supporting such claim,
during the public comment period on the draft
environmental impact statement; or

“(B) any other law with regard to the
project unless such person provided written no-
tice to the applicable approving agency of the
alleged violation of law, and the facts sup-
porting such claim, during the public comment period on such agency approval.

“(3) Elected or appointed officials working for the Federal Government or a State government may not be named in their individual capacities in an arbitration if they are acting within the scope of their official duties.”