

**AMENDMENT TO H.R. 2, AS REPORTED
OFFERED BY MR. PEARCE OF NEW MEXICO**

At the end of part III of subtitle C of title VIII, add
the following new section:

1 **SEC. 8334. PILOT PROJECT FOR FOREST HEALTH, WATER-**
2 **SHED IMPROVEMENT, AND HABITAT RES-**
3 **TORATION IN NEW MEXICO.**

4 (a) PILOT PROJECT ESTABLISHED.—The Secretary
5 of Agriculture, acting through the Chief of the Forest
6 Service, shall conduct a pilot project within the Lincoln
7 National Forest, Cibola National Forest, and Gila Na-
8 tional Forest in the State of New Mexico to analyze and
9 demonstrate the effectiveness of various tools and tech-
10 niques to address the following natural resource concerns:

11 (1) Thinning for forest health.

12 (2) Watershed improvement.

13 (3) Habitat restoration.

14 (b) AUTHORIZED ACTIVITIES.—The Secretary of Ag-
15 riculture in carrying out the pilot project established
16 under subsection (a) may conduct applied silvicultural in-
17 vestigations and treatments, including—

18 (1) silvicultural investigations conducted for the
19 purposes of information gathering and research re-

1 lating to the natural resource concerns described in
2 subsection (a); and

3 (2) mechanical thinning.

4 (c) COUNTY REFUSAL OF SILVICULTURAL INVES-
5 TIGATION OR TREATMENT.— The Secretary may not
6 carry out a silvicultural investigation or treatment under
7 this section if a county in which such investigation or
8 treatment would be conducted provides a refusal to the
9 Secretary with respect to such investigation or treatment.

10 (d) ENVIRONMENTAL ASSESSMENT UNDER THE NA-
11 TIONAL ENVIRONMENTAL POLICY ACT.—Forest manage-
12 ment activities carried out by the Secretary of Agriculture
13 under this section are a category of actions hereby des-
14 ignated as being categorically excluded from the prepara-
15 tion of an environmental assessment or an environmental
16 impact statement under section 102 of the National Envi-
17 ronmental Policy Act of 1969 (42 U.S.C. 4332).

18 (f) PUBLIC PARTICIPATION.—The Secretary shall en-
19 courage meaningful public participation during prepara-
20 tion of a silvicultural investigation or treatment under this
21 section.

22 (g) USE OF ARBITRATION INSTEAD OF LITIGATION
23 TO ADDRESS CHALLENGES TO FOREST MANAGEMENT
24 ACTIVITIES.—

1 (1) DISCRETIONARY ARBITRATION PROCESS
2 PILOT PROGRAM.—

3 (A) IN GENERAL.—The Secretary of Agri-
4 culture shall establish a discretionary arbitra-
5 tion pilot program as an alternative dispute res-
6 olution process in lieu of judicial review for the
7 an objection or protest to a forest management
8 activity carried out pursuant to this section.

9 (B) ACTIVITIES DESCRIBED.—The Sec-
10 retary of Agriculture, at the sole discretion of
11 the Secretary, may designate objections or pro-
12 tests to forest management activities for arbi-
13 tration under the arbitration pilot program es-
14 tablished under subparagraph (A).

15 (C) MAXIMUM AMOUNT OF ARBITRA-
16 TIONS.—Under the arbitration pilot program,
17 the Secretary concerned may not arbitrate more
18 than 10 objections or protests to forest manage-
19 ment activities in a fiscal year in each Forest
20 Service Region.

21 (D) DETERMINING AMOUNT OF ARBITRA-
22 TIONS.—An objection or protest to a forest
23 management activity shall not be counted to-
24 wards the limitation on number of arbitrations
25 under subparagraph (C) unless—

1 (i) on the date such objection or pro-
2 test is designated for arbitration, the forest
3 management activity for which such objec-
4 tion or protest is filed has not been the
5 subject of arbitration proceedings under
6 the pilot program; and

7 (ii) the arbitration proceeding has
8 commenced with respect to such objection
9 or protest.

10 (2) INTERVENING PARTIES.—

11 (A) REQUIREMENTS.—Any person that
12 submitted a public comment on the forest man-
13 agement activity that is subject to arbitration
14 may intervene in the arbitration—

15 (i) by endorsing—

16 (I) the forest management activ-
17 ity; or

18 (II) the modification proposal
19 submitted under clause (ii); or

20 (ii) by submitting a proposal to fur-
21 ther modify the forest management activ-
22 ity.

23 (B) DEADLINE FOR SUBMISSION.—With
24 respect to an objection or protest that is des-
25 ignated for arbitration under paragraph (1)(B),

1 a request to intervene in an arbitration must be
2 submitted not later than the date that is 30
3 days after the date on which such objection or
4 protest was designated for arbitration.

5 (C) MULTIPLE PARTIES.—Multiple inter-
6 vening parties may submit a joint proposal so
7 long as each intervening party meets the eligi-
8 bility requirements of subparagraph (A).

9 (3) APPOINTMENT OF ARBITRATOR.—

10 (A) APPOINTMENT.—The Secretary of Ag-
11 riculture shall develop and publish a list of not
12 fewer than 20 individuals eligible to serve as ar-
13 bitrators for the arbitration pilot program
14 under this section.

15 (B) QUALIFICATIONS.—In order to be eli-
16 gible to serve as an arbitrator under this para-
17 graph, an individual shall be, on the date of the
18 appointment of such arbitrator—

19 (i) certified by the American Arbitra-
20 tion Association; and

21 (ii) not a registered lobbyist.

22 (C) SELECTION OF ARBITRATOR.—

23 (i) IN GENERAL.—For each arbitra-
24 tion commenced under this subsection, the
25 Secretary concerned and each applicable

1 objector or protestor shall agree, not later
2 than 14 days after the agreement process
3 is initiated, on a mutually acceptable arbi-
4 trator from the list published under sub-
5 paragraph (A).

6 (ii) APPOINTMENT AFTER 14-DAYS.—
7 In the case of an agreement with respect
8 to a mutually acceptable arbitrator not
9 being reached within the 14-day limit de-
10 scribed in clause (i), the Secretary con-
11 cerned shall appoint an arbitrator from the
12 list published under subparagraph (A).

13 (4) SELECTION OF PROPOSALS.—

14 (A) IN GENERAL.—The arbitrator ap-
15 pointed under paragraph (3)—

16 (i) may not modify any of the pro-
17 posals submitted with the objection, pro-
18 test, or request to intervene; and

19 (ii) shall select to be conducted—

20 (I) the forest management activ-
21 ity, as approved by the Secretary; or

22 (II) a proposal submitted by an
23 objector or an intervening party.

24 (B) SELECTION CRITERIA.—An arbitrator
25 shall, when selecting a proposal, consider—

1 (i) whether the proposal is consistent
2 with the applicable forest plan, laws, and
3 regulations;

4 (ii) whether the proposal can be car-
5 ried out by the Secretary of Agriculture;
6 and

7 (iii) the effect of each proposal on—

8 (I) forest health;

9 (II) habitat diversity;

10 (III) wildfire potential;

11 (IV) insect and disease potential;

12 (V) timber production; and

13 (VI) the implications of a result-

14 ing decline in forest health, loss of

15 habitat diversity, wildfire, or insect or

16 disease infestation, given fire and in-

17 sect and disease historic cycles, on—

18 (aa) domestic water costs;

19 (bb) wildlife habitat loss;

20 and

21 (cc) other economic and so-

22 cial factors.

23 (5) EFFECT OF DECISION.—The decision of an

24 arbitrator with respect to the forest management ac-

25 tivity—

1 (A) shall not be considered a major Fed-
2 eral action;

3 (B) shall be binding; and

4 (C) shall not be subject to judicial review,
5 except as provided in section 10(a) of title 9,
6 United States Code.

7 (6) DEADLINE FOR COMPLETION.—Not later
8 than 90 days after the date on which the arbitration
9 is filed with respect to the forest management activ-
10 ity, the arbitration process shall be completed.

11 (h) TERMINATION.—The authority to carry out this
12 section shall terminate on the date that is 7 years after
13 the date of the enactment of this section.

